

W
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H

Campbell
T H E
CONTRIVERSY
James Wilson
B E T W E E N

James Wilson
Great Britain and her Colonies

R E V I E W E D ;

THE SEVERAL PLEAS OF THE COLONIES,

**In Support of their Right to all the Liberties
and Privileges of British Subjects, and to
Exemption from the Legislative Authority of
Parliament,**

STATED AND CONSIDERED ;

A N D

**The Nature of their Connection with, and
Dependence on, GREAT BRITAIN,**

S H E W N,

UPON THE EVIDENCE OF

HISTORICAL FACTS

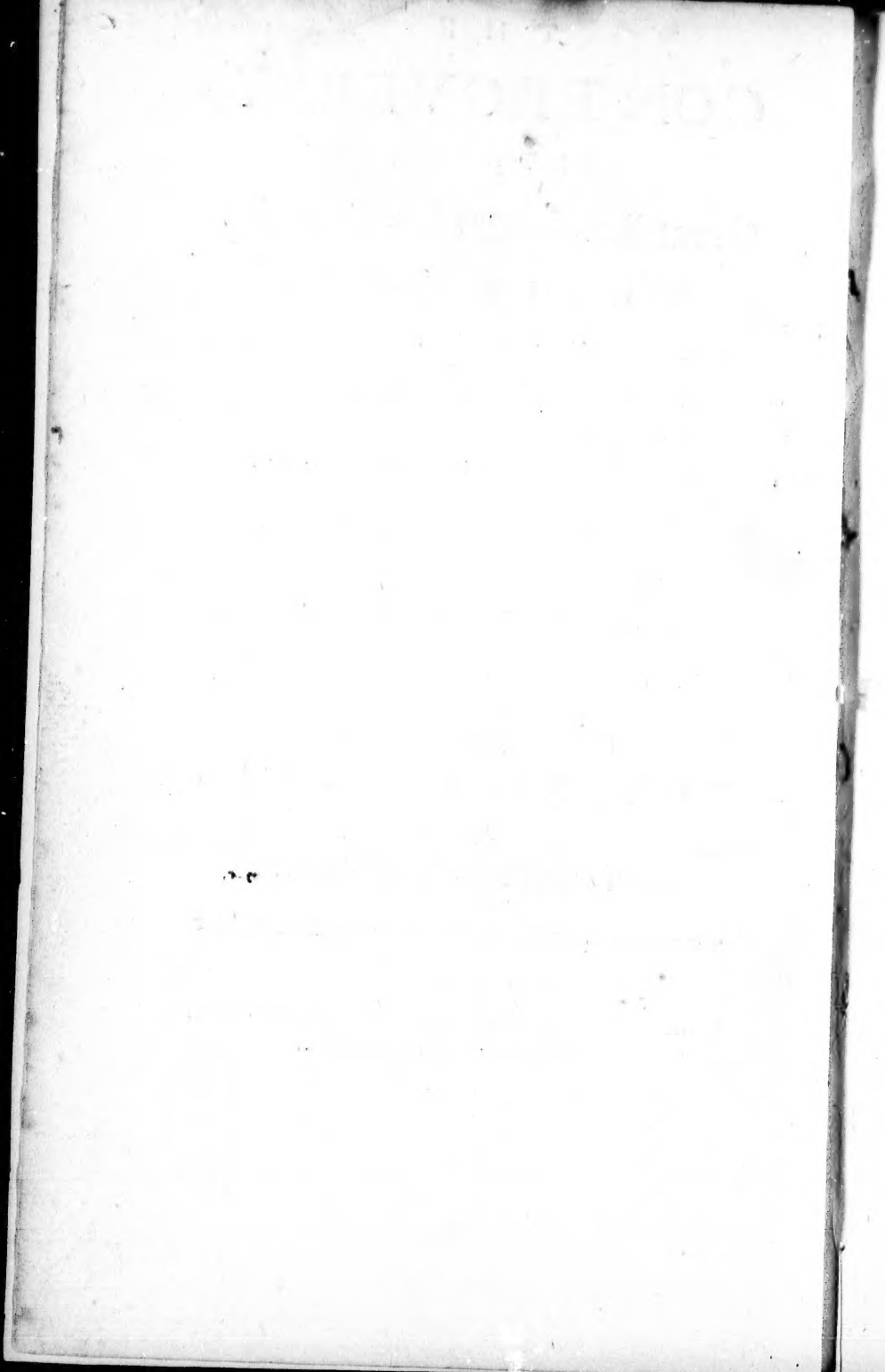
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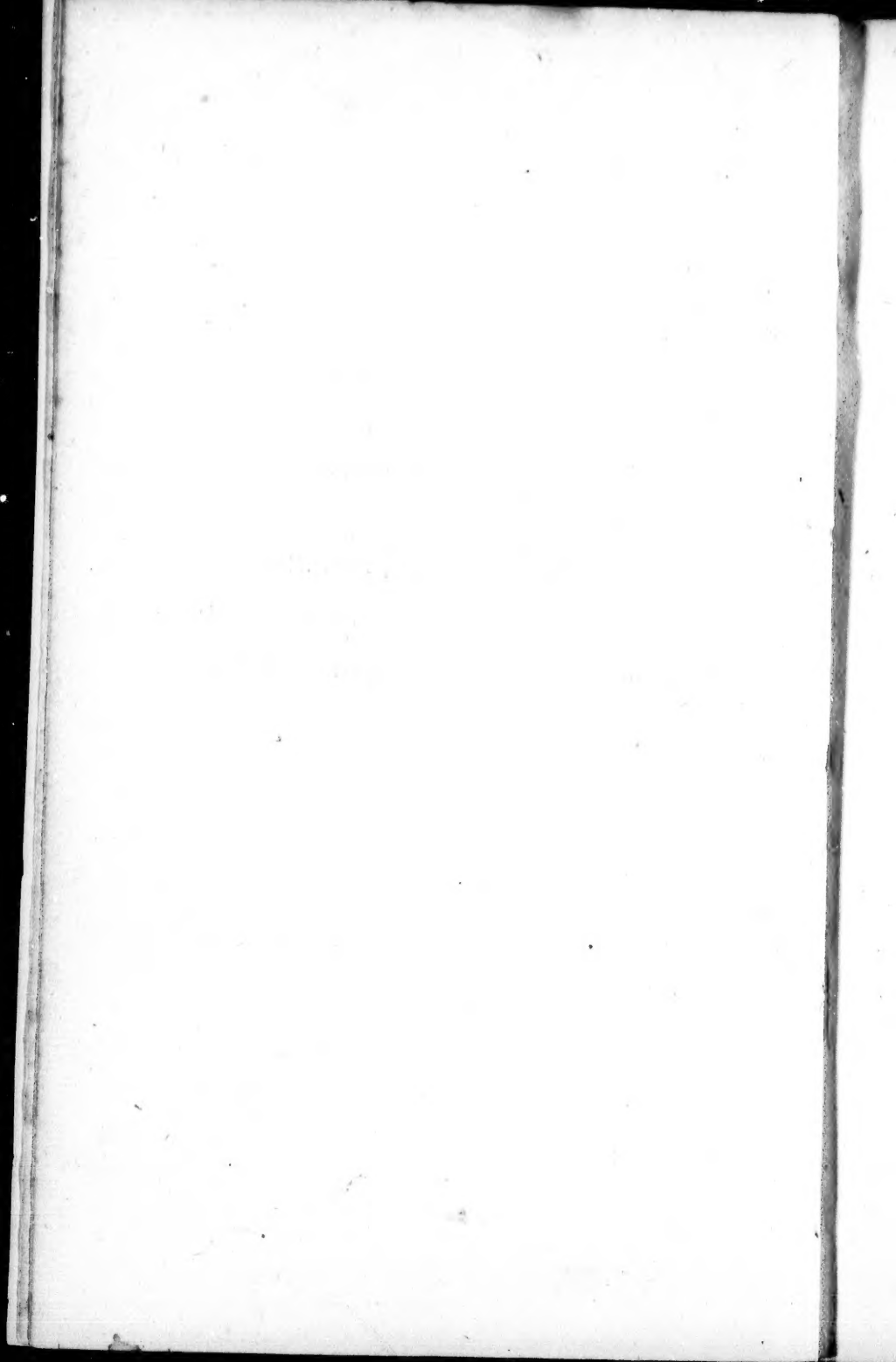
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*W. Campbell was a merchant of London
Spec of Board of Trade with whom
Franklin negotiated*



E R R A T A.

- Page 20, for *make free denizens of*, read, *naturalize*
Page 51, for *faint*, read, *faintly*
Page 56, for *premiss*, read, *premises*
Page 87, for *say there is*, read, *prove that*
Page 137, for *all that not been urged*, read, *all that has
been urged*
Page 130, for *methods of raising money*, read, *methods
for raising money*
Page 157, for *a corporate body*, read, *corporate bodies*



A

Review of the Controversy

BETWEEN

Great Britain and her Colonies.

“ **H**E that goeth about to persuade a
“ multitude, that they are not so
“ well governed as they ought to
“ be (says the learned and judicious *Hooker*)
“ shall never want attentive and favourable
“ hearers; because such as openly reprove
“ supposed disorders of state, are taken for
“ principal friends to the common benefit
“ of all, and for men that carry singular
“ freedom of mind. Under this fair and
“ plausible colour, whatsoever they utter
“ passeth for good and current. That which
B wanteth

“ wanteth in the weight of their speech is
 “ supplied by the aptness of mens minds to
 “ accept and believe it. Whereas, on the
 “ other side, if we maintain things that
 “ are established, we have to strive with
 “ a number of heavy prejudices, deeply
 “ rooted in the hearts of men, who think
 “ that herein we serve the time, and speak
 “ in favour of the present state, because
 “ thereby we either hold or seek prefer-
 “ ment.” Hence it is that the grossest ab-
 surdities pass for irrefragable arguments in
 the mouth of a popular declaimer, whilst
 the clearest deductions of reason, on the side
 of authority, are termed delusive sophistry,
 and the artful chicane of a courtier. Hence
 it is also that so few men of talents are
 willing to hazard their reputation on the
 success of their arguments in defence of go-
 vernment, or to become volunteers in the
 cause of truth, whilst calumny and falsehood
 are propagated amongst the people against
 their rulers without contradiction, and even
 sometimes with the indolent acquiescence of
 men of enlightened understandings and can-
 did hearts. Yet surely the task of asserting
 the

the rights of government, maintaining the authority of the supreme power over the whole community, of calling back the misguided multitude from factious combinations, and persuading them to unite in promoting the public happiness, by yielding a chearful obedience to the laws, and cherishing a zealous attachment to our excellent constitution, ought not to be left to the panegyrists of ministers, to those only who "hold or seek preferment." Is it the duty of the hirelings of an administration only, to inform the people of the extent of their rights, and to exhort them to their duty? To expose the malevolent designs, and detect the artifices of their seducers? To point out to them the dangers which beset them, and the fatal consequences which hang over them? To shew to them the hazard they run of losing their substantial liberty, by pursuing the *ignus fatuus* which they have been deluded to follow? Shall we see our fellow-subjects in the Colonies intoxicated with a fond conceit of their own importance, and charmed by the flattering whispers of independency, forsaking the *guide of their youth,*

youth, the sure stay of all their liberties, and the protector of all their rights and possessions, the parliament of Great Britain; and throwing themselves into the arms of prerogative, and putting all their confidence in the good pleasure of the crown? Is the British empire to be suffered to be rent in pieces, and each member of it exposed to become a prey to its powerful neighbour, from a vain imagination that there is no supreme power in the state, which has authority to command the strength, the riches, and the swords of all the subjects of the realm, to defend every part of its dominions, and to protect the rights and possessions of every individual who lives under it? Are we to fold our hands, and submit ourselves to the pressure of these calamities, because the followers of a minister do not think the cause of their patron concerned, or his stability endangered, or because the shafts of calumny and detraction are ready to be launched against whoever is hardy enough to endeavour to stop the madness of the people?

Far

Far be it from me to wish to be thought insensible to the good or ill opinion of my countrymen ; but as I consider it to be my duty to promote their welfare to the utmost of my poor ability, I will *show them my opinion*, whether they may reward or censure me for my endeavours.——On this principle, and actuated by these motives, it is, that, unawed by the terrors which rise before me, I adventure upon my present undertaking ; and I set down to review the American controversy, with the single, and I hope honest, purpose of bringing back my fellow-subjects in the Colonies to a just sense of their duty to the supreme legislative power, by exposing to them the fallacies by which they have been deluded, and exploring the dangers which the paths wherein they are now bewildered must unavoidably lead them into.

The several pleas which have been urged by those who have distinguished themselves in this controversy, on behalf of the Colonies,

nies, may be comprehended under these two general heads :

The title of the inhabitants in the Colonies to all the rights, liberties, and privileges of Englishmen ; — and their claim to exemption from the jurisdiction of parliament.

It should seem to be of the utmost importance to the Colonies, that the former plea was established before they adduced any proofs in support of the latter ; for, should they fail in the one, nothing could be more fatal to their freedom, and consequently to their prosperity, than their succeeding in the other.

If they should unhappily be able to demonstrate, that the Colonies are no part of the British state ; that they are the king's domain, and not annexed to the realm ; that the inhabitants are not British subjects, nor within the jurisdiction of parliament ; they can have no title to such privileges and immunities as the people of England derive
under

under acts of parliament, nor to any other of those rights which are peculiar to British subjects within the realm. What would then be their situation it behoves them well to consider; and before they reject the authority of parliament, they ought seriously and dispassionately to weigh the consequences, and be very well assured, that whilst they are labouring to free themselves from the present inconveniencies, which the jurisdiction of parliament subjects them to, they do not, by avoiding them, run into difficulties much more embarrassing, and expose themselves to hardships much more intolerable. They ought to reflect, that whatever may be their condition, they cannot apply to parliament to better it. If they reject the jurisdiction of parliament, they must not in any case sue for its interposition in their behalf. Whatever grievances they may have to complain of, they must seek redress from the grace of the crown alone; for, should they petition parliament to do them right, they themselves have authorized the crown to tell parliament, as the secretary of state to James the First did the house of commons,

“ America is not annexed to the realm, nor
 “ within the jurisdiction of parliament, you
 “ have therefore no right to interfere.”

Such being the case, we are therefore to expect to find the strongest efforts of the colony advocates directed to this point. We may indeed look for the clearest evidence, the most convincing arguments, and even demonstrative proofs of their right to these privileges, independent of acts of parliament, since we see them so eager to preclude parliament from the power of conveying to them any privilege whatever. Let us then see on what they found their title*.

In May 1765, the house of burgesses in Virginia resolved, “ That the first adventurers
 “ and

* To free the text from the embarrassment of long quotations, and to prevent the reader's attention from being carried off to other objects, I have here inserted only such of the several assemblies resolutions as have relation to the subject of the present enquiry. But in justice to the assemblies, I have given entire copies of their resolutions in the appendix.

" and settlers of this his majesty's colony
 " and dominion of Virginia, brought with
 " them and transmitted to their posterity, and
 " all other his majesty's subjects since inha-
 " biting in this his majesty's said colony,
 " all the liberties, privileges, franchises,
 " and immunities, that have at any time
 " been held and enjoyed, and possessed by
 " the people of Great-Britain."

This resolution is adopted by the assembly
 of Maryland, and repeated in the very same
 words: and as the assembly of Virginia
 has been said to have hung out the standard
 for American liberty, and the other Colonies
 have little more merit than that of following
 their leader, I must confess I expected to
 have found a *much clearer* proof of the truth
 of the proposition contained in their resolu-
 tion than I am able to collect from the
 terms in which it is expressed. They tell
 us indeed " That the *first adventurers* in
 " the reign of James the First, *brought*
 " *with them, and transmitted to their*
 " *posterity, &c.* all the liberties, privileges,
 " franchises, and immunities, that the people
 " of

“ of Great-Britain have at *any time* (since
 “ as well as before) enjoyed and possessed.”
 But in what sort of *menstruum*, *nucleous*,
 or *embryo*, it was that they carried with
 them to Virginia, in the reign of James the
 First, the *habeas corpus* act, which the people
 of England did not enjoy or possess till the
 reign of Charles the Second; or the bill of
 rights, which they did not enjoy till the
 reign of William and Mary; the acts for
 altering the succession and the limitation of
 the crown, and many others passed in that
 and the subsequent reigns; as they have not
 condescended to inform their friends in
 England, so they can only expect us to ad-
 mire their profound logical skill, and must
 content themselves with the more *rational*
applause of their countrymen, who they may
 have more fully instructed.

1765* The assembly of Pennsylvania, by their
 resolutions in the same year, declare, “ That
 “ the inhabitants of this province *are intitled*
 “ to all the liberties, rights, and privileges
 “ of his majesty’s subjects in Great-Britain,
 “ or *elsewhere*; and that the constitution of
 “ govern-

“ government in this province is founded on
 “ the *natural rights* of mankind, and the
 “ *noble principles* of English liberty, and
 “ therefore *is or ought to be perfectly free.*”

This resolution asserts in like manner, as do the resolutions of Virginia and Maryland, that the people of that colony *are intitled* to all the rights of British subjects; but it does not pretend that the *first settlers* carried them there: neither does it found their claim to them upon the royal charter to the proprietor, or upon the laws of Great-Britain, but upon the “ natural rights of mankind, and the “ noble principles of English liberty.”

That *the natural rights of mankind* should give any people a right to all the liberties and privileges of Englishmen, is, I believe, a doctrine unknown to all civilians, except the assembly of Pennsylvania. It is indeed a most benevolent doctrine; for if it be established, it will render the blessings which British subjects enjoy under their excellent constitution universal to all people, at least to all those who live under any constitution of govern-
 ment

ment which is founded upon the natural rights of mankind, in whatever part of the world they may inhabit, or whoever may be their sovereign. The native Indians in North America, the Hottentots at the Cape of Good Hope, the Tartars, Arabs, Cafres, and Groenlanders, will all have an equal title to the liberties and rights of Englishmen, with the people of Pennsylvania; for all their constitutions of government are founded on the *natural rights* of mankind.

The *noble principle of English liberty* is, however, another and more peculiar foundation for the constitution of the government in Pennsylvania; but where to find these *noble principles* of English liberty, except it be in the laws of the land, I confess I am ignorant: and if the assembly of Pennsylvania got them *elsewhere*, it would have been kind in them to have informed the world whence they had them, that other nations might have drawn from the same precious fountain. But, not to press too hard upon such tender ground, the consequence of their discovering these nobles principles, and
of

of having founded their constitution of government upon them, it seems is, that “ the constitution of government in Pennsylvania *is or ought to be perfectly free.*”

To be *perfectly free* is, I apprehend, to be in a state of nature absolutely independent of, and uncontrollable by, any other, in all cases whatever : and when applied to states, is the most complete definition of equality and independency that can be given. It excludes all possibility of a superior or paramount, and furnishes us with a full idea of supreme and unlimited jurisdiction. No law of another state can have force within that territory, nor can the inhabitants be amenable to any foreign judicature. No act whatever of the British parliament is or ought to be therefore of force in Pennsylvania, otherways the government of that country (I must not henceforth call it *province*, for that term implies dependence) cannot be, as it *is or ought to be*, perfectly free. The act of the 7th and 8th of king William, which declares, that “ all laws, “ bye-laws, usages, and customs, which shall “ be in practice in any of the Plantations, “ repugnant

“ repugnant to any law made or to be made
 “ in this kingdom relative to the said Plan-
 “ tations, shall be void and of none effect,”
 is plainly inconsistent with this *perfect freedom*
 of the Pennsylvania constitution of govern-
 ment, and therefore it *is not*, or *ought not* to
 be, of force : neither indeed *ought* the act of
 the 5th of George the Second, which makes
 the lands in America assets for the payment
 of debts, nor any other of the several acts
 of parliament which relate to the Plantations,
 to be executed within the jurisdiction of the
 government of Pennsylvania. Had the
Examiner of the Claim of the Colonies been
 acquainted with this resolution when he
 wrote his pamphlet, he probably would not
 have given so much offence to the author of
The Considerations on the Propriety of imposing
Taxes, as that gentleman has taken, at his
 producing acts of parliament in evidence of
 the right of parliament to dispose of the
 property of the people in Pennsylvania and
 the other American Colonies, for that reso-
 lution abrogates them all alike. None of
 them *is* or *ought* to be of force within that
 government; and instead of censuring the
 chief

chief justice for denying the authority of one act of parliament, when he admitted the authority of so many others, he would have blamed him for having admitted the authority of any, perhaps have accused him in so doing of denying the *perfect freedom of the constitution of the government of Pennsylvania*. We now see the reason of the assertion in the former part of this resolution: "that the constitution of the government is founded on the natural rights of mankind;" and the inference drawn therefrom, that all mankind have a natural right to the liberties, privileges, &c. of British subjects: for if that be not the case, it will be impossible for the people of Pennsylvania to have any right to such of them as are contained in acts of parliament, because those acts *cannot*, or at least *ought not*, as we have seen, to have any force there.

The assembly of Massachusetts Bay support their claim to all the rights and privileges of British subjects by the following resolutions, entered upon their journals the 29th of October 1765.

"RESOLVED,

“ RESOLVED,

“ That there are certain essential rights of
 “ the *British constitution* of government,
 “ which are founded in the *law of God* and
 “ *nature*, and are the *common rights of man-*
 “ *kind*: Therefore,

“ RESOLVED,

“ That the inhabitants of this province
 “ are unalienably intitled to those *essential*
 “ *rights in common with all men*.

“ RESOLVED,

“ That his majesty's subjects in America
 “ are in *reason* and *common sense* intitled to
 “ the *same extent* of liberty with his ma-
 “ jesty's subjects in Britain.

“ RESOLVED,

“ That by the declaration of *the royal*
 “ *charter* of this province, the inhabitants
 “ are intitled to all *the rights, liberties, and*
 “ *immunities* of free and natural-born sub-
 “ jects of Great-Britain, to all intents, pur-
 “ poses, and constructions whatever.

“ RESOLVED,

“ RESOLVED,

“ That the inhabitants of this province
 “ appear to be intitled to *all the rights afore-*
 “ *mentioned*, by an *act of parliament* the 13th
 “ of George the Second.

RESOLVED,

“ That *those rights* do belong to the
 “ inhabitants of this province upon *principles*
 “ of *common justice*.”

Here we see that the *law of God and Nature*, the *common rights of mankind*, *reason and common sense*, the *royal charter*, an *act of parliament*, and *common justice*, are all so many pillars on which the assembly of Massachusetts found their claim to the rights and privileges of British subjects; and where the props are so numerous, it will be hard indeed if none of them prove strong enough to support the building. Far be it from me to deny to the inhabitants of Massachusetts a participation in and of *such rights and privileges* as British subjects are intitled to in *common with all mankind*, or such as we de-

rive from the *laws of God or Nature*. *Such rights* they are certainly intitled to, as they are men, and as they are Christians; but all men, and all Christians, are not intitled to the rights and privileges of every *particular society of which they are not members or subjects*. Every society has rights and privileges peculiar to those who compose that society; and when we treat of the rights and privileges of the members of that society, we must be understood to mean *such privileges* as are *peculiar* to that society, and not such as are the common rights and privileges of all Christian men. When therefore we are discussing the *rights and privileges of British subjects*, we must confine our enquiries to such rights as a natural-born subject of the British society or state is intitled to, and to which an *alien*, or one who is not a member of that society, has no claim. The laws of *God* or of *Nature*, or the *common rights* of mankind, cannot therefore give the inhabitants of Massachusetts any title to the *peculiar* privileges of British subjects, if they are not also members of the British community or state. The laws of God and of nature,
and

and the common rights of mankind, would indeed equally serve to support their claim to the rights and privileges of Dutchmen, Frenchmen, Italians, or of any other Christian society or state, as to justify their pretensions to the rights and privileges of British subjects.

Reason and common sense are much fitter to be employed in proving the goodness of a title, than to be set up themselves as a title. *Reason and common sense* are faculties of the mind, by which the truth or falsehood of any proposition is tried, but they are not in themselves either principles or propositions; when therefore we shall have tried and examined the several propositions on which the colony assemblies found their claim to all the rights and privileges of British subjects, we shall then see whether they are intitled to them *in reason and common sense*, or not.

A *royal charter*, it must be allowed, conveys a clear title to whatever it is in the right or prerogative of the crown to grant;

naturalize

grant; but it is not the prerogative of the crown to ~~make the aliens~~ of aliens; that is, to bestow on *foreigners* the rights and privileges of natural-born subjects.— Every act of parliament for naturalizing a foreigner is a proof that it is not. The king of England, or any other king, may grant to any people who are their subjects rights and privileges *similar* to those enjoyed by the people of Great Britain; but no authority, other than the supreme legislature of Great Britain, can incorporate any individual or people into the British community, or make them partakers of the rights and privileges of British subjects. If the inhabitants of Massachusetts are not therefore the natural born subjects of the realm of Great Britain, and a part of the British community, the king cannot by any act of his alone naturalize them, or give them a title to the rights and privileges of British subjects.

An *act of parliament* is indeed a sufficient authority to convey to any people who acknowledge its supremacy, the rights and privileges of British subjects; but I little expected to have

seen an act of parliament appealed to by the assembly of Massachusetts, as having conveyed to them any rights or privileges, when at the same time they are denying that parliament has any jurisdiction over them whatever. But it seems parliament has a right to *benefit* the colonies, but not to *bind* them: it may *give* them *bounties*, but it must not *impose burdens*. Its power over the colonies is somewhat like that allowed by the deists to the Almighty over his creatures, he may reward them with eternal happiness if he pleases, but he must not punish them on any account. Parliament however, I am afraid, will not be content with such a power, and I would not advise the Colonies to rely too much upon its good nature; for if it should find itself to have been *mistaken* in ranking the inhabitants in the Colonies among the subjects of the realm, and that it has granted the privileges and immunities of British subjects to those who are not of the British community, and disavow its authority over them; there might be danger of its recalling that grant, and declaring by another act of parliament, that the rights and privileges of Bri-

tish subjects shall not extend to the Colonies. Even the *principles of common justice*, which is the last pillar of the Massachusetts assemblies title, would demand this of parliament; for it is the highest *injustice* that those who will not share in the burdens of the community, nor be bound by its laws, should partake of its benefits, and enjoy its privileges in common with those who are its members.

The assembly of New York introduce their resolutions of the 18th of December, 1765, with a declaration of "their faith and allegiance to his majesty king George the Third, and of *their submission to the supreme legislative power*," undertaking at the same time to shew "that the rights claimed by them, are *in no manner inconsistent with either*." Had the subsequent resolutions been conceived in the same spirit with this introduction, I should have been happy in applauding the wisdom of the assembly at New York, and have proposed their example for the instruction and imitation of all the other Colonies. God forbid
that

that any of the inhabitants of the Colonies should be deprived of any "right which is consistent with their faith and allegiance to the king, and *their submission to the supreme legislative power.*" To intitle them to all *such rights*, it is sufficient that they acknowledge themselves to be *subjects of the realm*, and that the supreme legislature admits them so to be; the resolution therefore which would be the plain consequent of this introduction is simply this, that the people of New York are *British subjects*, and thence intitled to all the rights, privileges, and immunities of their fellow subjects the people of England. But instead of this explicit declaration, that assembly resolves, "That *they* (the people of that Colony) owe obedience to all acts of parliament *not inconsistent with the essential rights and liberties of Englishmen*, and are intitled to the same rights and liberties which his majesty's *English subjects*, both *within* and *without* the realm, have ever enjoyed."

I would not be thought to find fault without reason; and yet if I do not *seek occasion* for offence in this resolution, I am

sure I shall not find any ; for who would wish that the people of New York, any more than the people of England, should pay obedience to any act of parliament which is *inconsistent with the rights and liberties of Englishmen?* and notwithstanding I may not be convinced of their title, yet as I sincerely desire that they may partake of all the rights and liberties which his majesty's *English subjects within* the realm enjoy ; so do I most freely give them all the rights and liberties which his *English subjects without* the realm have ever enjoyed, although I profess I do not very well know what it is I am yielding when I say so, for I really am ignorant who his majesty's *English subjects without the realm* are, or what are the rights and liberties which they enjoy. I shall therefore leave this assembly in full possession of their resolutions, and only extract two other of them, which I shall hereafter have occasion to take notice of.

“ RESOLVED,

“ That it involves the greatest inconsistency
 “ with the known principles of the English
 “ constitution, to suppose that the honour-
 able

“ able house of commons of Great Britain
 “ can, without divesting the inhabitants of
 “ this colony of their most essential rights,
 “ grant to the crown their, or any part of
 “ their estates for any purpose whatsoever.

“ RESOLVED,

“ That from the first settlement of the
 “ Colonies, it has been the *sense of the go-*
 “ *vernment at home, that such grants could*
 “ *not be constitutionally made*, and therefore
 “ applications for the support of govern-
 “ ment, and other public exigencies, have
 “ *always* been made to the representatives
 “ of the people of this colony.”

I come now to what Mr. Dickenson calls
 the American declaration of rights, which
 are the resolutions of the committees from
 the several Colony assemblies, which met at
 New York, 19 October, 1765. and here we
 may expect to find the separate and irregu-
 lar claims of each Colony consolidated and
 reduced into system and consistency. Their
 resolutions are as follow :

“ That

“ That his majesty’s subjects in these Co-
 “ lonies owe the same allegiance to the
 “ crown of Great Britain that is owing from
 “ his subjects *born within the realm*, and all
 “ *due subordination* to that *august body*, the
 “ parliament of Great Britain.

“ That his majesty’s *liege* subjects in these
 “ Colonies *are intitled* to all the *inherent*
 “ *rights* and liberties of his natural-born
 “ subjects within the kingdom of Great
 “ Britain.”

In their petition to the house of commons
 they thus express themselves: “ It is from
 “ and under the English constitution we de-
 “ rive all our civil and religious rites and li-
 “ berties; we glory in being subjects of the
 “ best of kings, and having been born un-
 “ der the most perfect form of government.”
 Further: “ We esteem our connexions with
 “ and *dependence* on Great Britain as one of
 “ our greatest blessings; and apprehend the
 “ latter will appear to be sufficiently secure,
 “ when it is considered that the *inhabitants*
 “ in the Colonies have the most unbounded
 “ affection

" affection for his majesty's person, family,
 " and government, as well as for the mother
 " country, and that *their subordination* to
 " the parliament is universally acknow-
 " ledged."

A plain English reader of these resolu-
 tions and petitions would be apt to imagine
 these committees had, in effect, given up
 the point, and had fairly acknowledged the
 supreme authority of parliament over the Co-
 lonies; and that, as we all meant the same
 thing on both sides the water, it was not
 worth while to quarrel about the manner of
 expressing it. This the committees expect-
 ed; and their skill in framing their resolu-
 tions and petitions would have been thrown
 away, if their manner of expressing them-
 selves had not excited in the reader ideas
 much more extensive than the strict, even
English, meaning of the term would justify.

What Englishman could desire more of
 the Colonies than *due obedience* to that august
 body, the parliament of Great Britain? But
 what is *due obedience* is a matter in which
 they

they and the people of England differ exceedingly; and the committees chose to reserve to the colonies *their own construction* of the terms, while they hoped the people of England would be led to believe they agreed with them in theirs.

An Englishman conceives due obedience to parliament to mean lawful obedience, or obedience to an act of parliament. The Colonies conceive the parliament to have no right to make laws for them; and due obedience to parliament is therefore, in their apprehension, no obedience at all. An Englishman, without treason, though perhaps not without mental falshood, may swear to pay all *due obedience* to the king of France; because, as he conceives that king to have no *right* to his obedience as an Englishman, he promises to pay him none. Where there is no right to require obedience, there can be none due; and to deny the right to the demand, and profess to pay what is due, is contemptible chicane.

The

The title of *August Body*, which they give the parliament, is another subterfuge for *seeming* to respect its authority, whilst they *mean* to disavow it. An august body it certainly is, and *foreigners* frequently call it so; but the subjects of the realm know it by another title, that of supreme legislature. That title would however have implied obedience to its laws in those who gave it; but the committees, not intending to acknowledge such obedience, avoided giving it that title which is only proper from subjects, and gave it one which implied no relation or dependence on it, and yet carried so much the appearance of respect, that it might be mistaken to mean it.

The distinction they mark in their resolutions between the people of America and the people of England, by terming the one *his majesty's liege subjects in the Colonies*, and the other, his *natural-born* subjects, or his subjects *born within the realm*, plainly, though indirectly, declares it to be their opinion, that the people in the Colonies, are

NOT

not the king's *natural-born subjects*, or his subjects *born within the realm*. They cannot therefore claim the rights and privileges of Englishmen, from their being British subjects in common with the people of England, or the subjects born within the realm ; and yet no other title to those rights do any of them pretend, than that such are the rights and privileges of Englishmen or British subjects. For they go on to resolve, " That it is inseparably " essential to the freedom of a people, and the " undoubted right of *Englishmen*, that no " taxes be imposed on them but with their " own consent, given personally, or by their " representatives. That trial by jury is the " inherent and invaluable right of every " *British subject* in these Colonies." Also, " that it is the right of the *British subjects* in " these Colonies to petition the king or either " house of parliament." This is all very true and very sensible ; but who those *Englishmen* or *British subjects* in the Colonies are, to whom, and *to whom only*, these rights belong, cannot easily be discovered. They cannot be the inhabitants of the Colonies, or those who have been born there ; for the
former

former resolutions say, that the Colonies are *not within the British realm*, nor that the people who are born there are the *natural-born subjects* of the king, *born within the realm*.

Having thus seen upon what sort of foundations the different colony assemblies build their several titles to the rights and privileges of Englishmen, and that each superstructure, at the approach of reason, vanishes like —*the baseless fabric of a vision*.——

I will not fatigue the reader with a discussion of the arguments introduced by the colony advocates in support of the assemblies resolutions. Whatever they can urge in behalf of the Colonies claim to the rights and privileges of Englishmen, whilst they deny that they are subjects of the realm, or natural-born British subjects, and that the Colonies are within the realm, must be obnoxious to the same charges of inconsistency and absurdity to which the assemblies resolutions are so palpably liable; and the simplest of my countrymen can easily detect the most artful American sophister, by in-

sisting

sisting upon his answering this plain question :
Are the people in the Colonies British subjects, or are they aliens or foreigners ?

The assemblies and their advocates, aware of this dangerous dilemma, have never directly and explicitly declared, as the reader must have observed, that they are, or that they are not, British subjects; that is, subjects of the British state or community. They avoid that declaration by every artifice and subterfuge that words can supply them with. They are at one time "Englishmen," at another "the children, and not the bastards of Britons;" they are "free Britons;" "the king of Great Britain's liege subjects;" "they owe the same fealty and allegiance to his majesty that is due to him from his subjects in Great Britain," and numberless other equivocal professions, which serve to elude the main question; at the same time, as if under each character they had defined their condition to be that of British subjects, they boldly draw the consequence, *that they are intitled to all the rights and privileges of natural-born subjects*

subjects in common with the people of England. That they cannot however maintain their title to those rights upon any other ground, than that of their being British subjects, born and inhabiting within the realm, is, I think, sufficiently evident ; and therefore, that they may fail in proving that they are not British subjects, and that the Colonies lie without the realm, is the most friendly wish I can give them. How far they have succeeded in the fatal attempt, must be the subject of our next enquiry.

And here we shall perceive, that however cautious the Colonies have been in admitting that they are British subjects in any sense whatever, that they do not nevertheless, *as yet*, reject the authority of parliament to bind them in any case, save in the article of taxation ; and, against even this right in parliament, they do not urge that they are not British subjects, and consequently not within the jurisdiction of the supreme British legislature, because that plea would involve every other right of jurisdiction in the decision of that question ; and it is the artifice of the managers on be-

half of the Colonies, to avoid general questions, and to keep back and conceal consequences, lest the unsuspecting people of England should too soon catch the alarm, and resolve to withstand their first attempts at independency.

When the repeal of the stamp-act was their object, a distinction was set up between internal and external taxes; they pretended not to dispute the right of parliament to impose external taxes, or port duties, upon the Colonies, whatever were the purposes of parliament in laying them on, or however productive of revenue they might be. Nay, Doctor Franklin tells the house of commons, that “ they have a *natural and equitable* right
 “ to some *toll* or *duty* upon merchandizes
 “ carried through that part of their dominions, viz. the American seas, *towards*
 “ *defraying the expence they are at in ships to*
 “ *maintain the safety of that carriage.*” This, however, was only the language for 1765 and 1766, but when parliament seemed to adopt the distinction, and waiving for the present the exercise of its right to impose internal taxes,

taxes, imposed certain duties on merchandizes imported into the Colonies, and carried through those seas which the parliament was told were *theirs*: the distinction between internal and external taxes is rejected by the colony advocates, and a new one devised between taxes for *the regulation of trade*, and taxes for the *purpose of revenue*.

This new distinction, however, between taxes for the regulation of trade, and taxes for the purpose of revenue, as far as it respects the right of parliament to impose the one, but not the other, is, of all absurdities, the most ridiculous that ever was contended for. It is saying, in other words, that parliament has a right to impose a *heavy tax*, but not a *small one*. It may lay one so grievous, that no body can afford to pay it; but it has no authority to impose one which may be easily borne: nay, in the instances referred to by Mr. Dickenson in his Farmer's Letters, it should seem to mean that parliament has no right to *reduce* a tax which it has had a legal right to impose in a manner *extremely burdensome*. The right of Par-

liament to charge foreign molasses with a duty of six-pence a gallon was unquestionable; but, for parliament to *reduce* the six-pence to three-pence, is a violent usurpation of unconstitutional authority, and an infringement of the rights and privileges of the people in the Colonies. The reduction of the duty upon black teas too was another intolerable grievance: whilst they carried out with them a duty of one shilling a pound, paid at the East-India Company's sales, which, by the ordinary increase of charges, amounted to near eighteen pence when the teas arrived in America, things went on very well; but when parliament took off that shilling, and instead thereof laid on a duty of three pence, to be paid on importation of the tea into the Colonies, which precluded all increase of charges, then were the Colonies undone. Even the late duties upon oils and colours, &c. it seems, have become grievous from their being *no duties at all*; for Mr. Dickenson tells us, in his eleventh letter, that the drawbacks which are allowed upon their exportation from England, amount to more money than all the duties together

together which are laid upon them on their arrival in the Colonies will produce. I believe it is the first time that the Colonies of any state, have complained of the injustice of the mother-country in laying taxes upon them which were not *sufficiently heavy*; nor was it ever before discovered, that the proper means to redress the grievances of any people, were to increase their taxes. And yet this is certainly the case in the present instance between Great Britain and her Colonies; for, if parliament had augmented the duties upon foreign melasses, instead of reducing them, or had it laid on another shilling upon black teas exported to the Colonies, instead of taking one off, the right to do so would have been admitted. But (says Mr. Dickenson) the heavy tax would have operated as a prohibition, which is a *regulation of trade*; the light tax is intended to *be paid*, and is laid for the *purpose of revenue*.

It is the *purpose of parliament* in laying the tax, which, it seems, gives it the right of laying it. Curious reasoning this! — Now, should it happen, that parliament was at

any time mistaken in its purpose, and that a tax which it imposed with an intention that no body should pay it, that is, that it should operate as a prohibition, should really turn out to be such a tax as the commodity on which it was charged could bear, and the people in the Colonies were willing to purchase it at the price the tax had raised it to, what should we do then? If the tax be paid it then becomes a revenue tax, and no longer a prohibitory one, and is thenceforward a grievance, and an infringement of the rights of the Colonies. On the other hand, suppose parliament should be mistaken in a tax it laid for the purpose of revenue, and it turned out a prohibition, would the tax then become a constitutional one?

Nevertheless, say the colony advocates, the essential distinction between the two sorts of taxes will subsist *in the purpose* for which the tax is laid, no matter how it may operate; and for this essential distinction we are referred to our old statutes. Let the reasoning of parliament in the preamble to the 15th of Charles the Second, chap. the eleventh, be the measure
of

In regard, says this statute, “ that his ma-
“ jesty’s plantations, &c. beyond the seas, are
“ *inhabited and peopled by his subjects of this his*
“ *kingdom of England*, for the maintaining a
“ greater correspondence and kindness be-
“ tween them, *and keeping them in a firmer de-*
“ *pendence upon it*, and rendering them yet
“ more *beneficial and advantageous to it*, in the
“ further employment and increase of *English*
“ shipping and seamen, *vent of English woollen,*
“ *and other manufactures and commodities*, ren-
“ dering the navigation to and from the same
“ more safe and *cheap*, and making *this king-*
“ *dom* a staple, not only of *the commodities of*
“ *those plantations*, but also of the commodities
“ of *other countries and places*; for the supply-
“ ing of them, be it enacted, &c.” These se-
veral purposes are therefore to be deemed re-
gulations of trade; and to whatever tax or duty
which may be imposed with any of those pur-
poses, the Colonies ought to submit, notwith-
standing a revenue should incidentally arise
from them. Be it so. One purpose, then it ap-

pears,

pears, is, " the making the colonies a vent for
 " British manufactures." Now if the British
 manufacturers are heavily taxed, and the Ame-
 rican manufacturer pays no taxes, or very small
 ones, the British manufactures must come
 much dearer to the consumer in the Colonies
 than American manufactures, and conse-
 quently the British manufactures will not
 sell there, and the Colonies will no longer
 be a vent for them. To prevent which,
 there can be no means so evident or effectual,
 as taking off taxes from the British manufac-
 turers and laying them on the American ma-
 nufacturer. With this view, and with this
 purpose, of " securing a vent for the British
 " manufactures," an act of parliament, lay-
 ing a poll-tax upon all manufacturers of
 linen or wool, or a heavy tax upon all kinds
 of manufactures which should be made in
 the Colonies, would be extremely proper.
 For this purpose also, all materials for ma-
 nufactures should be taxed, unless exported
 to Great Britain; as should all tools and in-
 struments for manufacturing. The encou-
 ragement of *English* navigation likewise
 opens another vein for drawing off the
life-

life-blood of the Colonies, as they call their money. Tonnage duties upon all ships and vessels built in the Colonies; duties upon all materials for ship-building, of the product of the Colonies, or imported there; and, in short, there is scarcely a tax, internal or external, which the people in England are liable to, that might not be imposed on the Colonies, for some of these purposes. Besides, if we enter thoroughly into the matter, we shall find that it is always an argument of the want of finance ability in the minister who proposes any tax which is not intended to operate beneficially as a regulation, as well as to produce revenue.

A land-tax is a judicious regulation, inasmuch as it excites the land owner to cultivate and improve his lands; and with this very view, taxes are laid upon unimproved lands in America, by the colony assemblies. Thus our East-India duties are many of them calculated to promote our own manufactures, as well as to raise a revenue. Thus the duties upon French goods were imposed with a view to check the trade of France,

to

to encourage our own manufactures, and, at the same time, to raise a fund for defraying the public expences. So likewise are a multitude of our taxes upon articles of luxury and of extravagance in our home consumption; so likewise are the taxes upon many of our exports, to prevent the manufacture of our raw materials abroad, and to encourage it at home. The double tax upon the Roman Catholics was laid with a view to weaken that interest, as well as to raise a revenue; and it was considered and urged as the strongest motive for laying on the British stamp duties upon licences to keep ale-houses, to sell wine and spirituous liquors, and even those upon all law-proceedings, and upon the admission of attornies, and many others, that those duties would greatly operate to discourage and diminish what was wished to be checked, as well as produce a public revenue.

Upon this principle, even the stamp-act in America might have been considered as a regulation; for it was intended likewise to prevent or detect the forgery of deeds, wills,

or

or other instruments; to discourage, by a high duty, the grant of large quantities of land to one person; to make all law proceedings and instruments in the English language, and thence incite the foreign subjects to learn it; to discourage a spirit of unnecessary litigation in the Colonies; to prevent disorders which frequently happen from tipping-houses in remote places, and from selling spirituous liquors to the Indians in the woods; to make the entries and clearances of ships more regular; and to prevent false cockets, and several things of the like nature.

This boasted distinction between taxes for the regulation of trade, and taxes for the purpose of revenue, we therefore see is without a difference, and will in no sort serve to protect the Colonies from parliamentary internal and external taxation, however it may serve for a pretence, under which to strip parliament of all jurisdiction over the Colonies.

I have indeed thought of a distinction which would suit the Colonies purposes much

much better, and which, I believe, is what they mean, by the difference between taxes for the purpose of revenue, and taxes as regulations of trade, if they chose to speak it out, which is that between the imposing taxes and collecting them. They would acknowledge, with all their hearts, a right in parliament to do the one, provided it never attempted to do the other. It is this *new invention of collecting taxes* that makes them burdensome to the Colonies, and an infringement of their rights and privileges;—and herein it is that Mr. Grenville's administration has proved the era of the Colonies loss of liberty.

The duty of six pence a gallon upon foreign molasses, which had been laid thirty years before Mr. Grenville was first commissioner of the treasury, was no grievance, *because it had never been collected*; but when that gentleman reduced the duty to three pence, all liberty was at an end—for he took measures for the Colonies to pay the three pence.

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For *this invention* of collecting taxes, and making them productive of revenue, it is, that this gentleman has been considered by some of the heated advocates of the Colonies as the determined, implacable enemy of their liberties; that he has been pursued by them, and their partizans, on this side the water, with the bitterest malevolence. Yet, notwithstanding these calumnies, those who know his public declarations, and his private sentiments, can testify, that he never entertained a thought of resenting the harsh and unjust treatment he met with from them, much less did he ever wish to deprive the Colonies of any privilege which the British constitution gave them a right to, or their safety, and that of Great Britain, would permit them to enjoy. Many gentlemen in the Colonies authentically know, that such are his private dispositions; nor can they or the people of Great Britain be ignorant, that he has frequently manifested them in the most public and solemn manner. When the parliamentary right
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of taxation has been questioned, have they
 not heard him declare in these terms,
 " That to such a surrender of the legisla-
 " tive authority I can never be a par-
 " ty, as I think it the highest species of
 " treason against the constitution and so-
 " vereign authority of this kingdom, to de-
 " prive it of one-fourth part of its subjects:
 " but tho' I cannot adopt nor approve of
 " such a plan, ye I can submit to it; and
 " having done my duty to the utmost, by en-
 " deavouring to convince the king, the par-
 " liament, and the people, of the unhappy
 " consequences of such a measure, I shall
 " wait the event till experience has given
 " conviction one way or the other; and so
 " far am I from thinking, if I had the power,
 " that I have a right to carry matters to ex-
 " tremity, as it is supposed I would, in order
 " to enforce my own opinions in contradiction
 " to theirs, upon a subject of such infinite im-
 " portance to the whole, that if I were to see
 " the king, the parliament, and the people,
 " ready to run into extremes on that side,
 " which in the course of things seems to
 " me highly probable, I would employ all
 " the

“ the means in my power to prevent it, and
 “ to suggest temperate measures as long as
 “ they were practicable; being fully per-
 “ suaded, that whatever blame there is, it
 “ is owing to those in England who have
 “ weakly or wickedly misled the subjects in
 “ America, and not to the Colonies them-
 “ selves, who have done no more than any
 “ other people would have done, to whom
 “ an immunity from taxes had been holden
 “ forth, and who have been encouraged as
 “ they have been.” But not to enter fur-
 ther into this matter, and to return from this
 digression, which justice to so distinguished
 a character, and the desire of undeceiving
 my fellow-subjects in the Colonies led me
 into, let us enquire whether this tax could
 have operated as a regulation of trade, or
 fulfilled any purpose of parliament in im-
 posing it, if it were not collected.

The purpose of parliament in imposing
 the tax, as the statute expresses it, was to give
 a preference to the molasses of the British
 islands, or, in other words, to raise the
 price of foreign molasses so high, that the
 molasses

molasses of our own islands could be afforded cheaper, or at least at the same price. Now, unless this tax was collected, this purpose could not be effected; and if it was collected, and the same quantity of foreign molasses was imported, as has been imported since the tax was reduced to three pence, the revenue which should have arisen from this regulation tax would have been double the sum of what the tax of three pence imposed for the purpose of revenue produced, which would have been a most notable proof of the difference in this distinction. But suppose the tax of six pence a gallon was too heavy for the foreign commodity to bear, and that the molasses of the British islands only was imported, as cheaper than the foreign with the duty, the duty then operates as a prohibition upon foreign molasses; and what is the consequence? The people in the Colonies are obliged to purchase the molasses of the British islands at the price they can afford to sell it for, or at which they chuse to part with it. Now, as it comes dearer than the foreign molasses would, if there were no duty, the difference of price between what the

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the Colonies paid for foreign molasses before the Duty, and that which they paid for the molasses of the British islands since the duty, is a tax taken out of the pockets of the people in the Colonies by act of parliament, and put into the pockets of the planters in the British islands. Are these then the sort of taxes which parliament has a right to impose upon the Colonies? Does the purpose of the tax, being for enriching the sugar planters in the British islands at the expence of the Colonies on the Continent, make it more palatable to the Colonies, than if it were for the general service of protecting and securing themselves? And after all, is it the privilege of being taxed by parliament for the benefit of individuals in other parts of the British empire, and an exemption from taxes for the general good, that the Colonies are contending for?

Perhaps it may be thought that I have spent more time and taken more pains in exposing the absurdities contained in this extravagant doctrine, of a right in parliament to impose taxes as regulations of trade, but

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not

not to impose any for the purpose of revenue, than the importance of it merited, or the authority by which it is supported intitled it to; for it would be so very easy for parliament to draw from the Colonies whatever revenue it thought fit to require, under the description of taxes *for the regulation of trade*, that, *merely* for the *purpose of revenue*, it might never be requisite for parliament to impose any taxes whatever on the Colonies, and therefore the right of doing so *on that account* is not worth enquiring into. But whatever impeaches the jurisdiction of parliament over the Colonies, however insignificant in itself, becomes of importance from its consequences; for if the authority of the legislative be not in one instance equally supreme over the Colonies as it is over the people of England, then are not the Colonies of the same community with the people of England. All distinctions destroy this union; and if it can be shewn in any particular to be dissolved, it must be so in all instances whatever. There is no alternative: either the Colonies are a part of the community of Great Britain, or they are in a state
of

of nature with respect to her, and in no case can be subject to the jurisdiction of that legislative power which represents her community, which is the British parliament.

However faint any line of partition may be attempted to be drawn between the people in England and the people in the Colonies, it is not to be endured, if we would preserve the union between them as one community, and the supremacy of parliament over all as the representative of that community.

If the Farmer's Letters were indeed to be considered as mere speculative essays upon civil government, neither the justness or elegance of the composition, the knowledge of the subject handled, or the constitutional learning displayed in them, would give them much authority, or intitle them to the notice I have taken of them; but their purpose being to excite resentment in the Colonies against their parent country, and to push them on to a separation from her, tenderness for my deluded fellow-subjects engaged me

to expose the fallacies and absurdities attempted to be imposed upon them for demonstrative truths; with the same view, I shall now select a few out of the many inconsistencies and self-contradictions of that writer. “ If (says he in his first letter) the
 “ British parliament has a legal authority to
 “ order that we shall furnish *a single article*
 “ for the troops here, and to compel obedience to that order, they have the same
 “ right to order us to supply those troops
 “ with arms, cloaths, and every necessary;
 “ and to compel obedience to that order
 “ also: in short, *to lay any burdens they please*
 “ *upon us.* Again, an act of parliament,
 “ *commanding us to do a certain thing,* if it
 “ has any validity, is *a tax upon us* for the
 “ expence that accrues in complying with
 “ it.” In another place in the same letter he says, “ If Great Britain can order us *to*
 “ *come to her for necessaries we want,* and
 “ can order us to pay what taxes she pleases
 “ *before we take them away,* or when we
 “ land them here; we are as abject slaves as
 “ France and Poland can shew in wooden
 “ shoes and with uncombed hair.”

“ Let

“ Let us (says he in his twelfth letter)
 “ consider ourselves as men, freemen, chri-
 “ stian-freemen, *separated from the rest of*
 “ *the world*, and firmly bound together
 “ by the same rights, interests, and dan-
 “ gers.” “ What (continues he) have these
 “ Colonies to ask while they continue free ?
 “ or what have they to dread, but insidious
 “ attempts to subvert their freedom ? *They*
 “ *form one political body of which each colony*
 “ *is a member.*”

If we take the sense of these several pas-
 sages together, we shall find that the exer-
 cise of sovereign authority over the Colonies
 is connected so intimately with the right of
 taxation, that the one cannot subsist without
 the other in any case whatsoever. The im-
 pressing waggons or boats for the transporta-
 tion of troops or their baggage ; the quar-
 tering them even upon public houses ; their
 trampling down a man's fences in their
 march, or encamping upon his grounds ; their
 passage over ferries or toll-bridges—are all
 taxes, it seems ; for in all these cases, *something*
 is furnished to the troops, or something is

done by them, or something is commanded to be done for them, from whence *some expence will accrue to the people in the Colonies.* And if parliament has no right to require any of these things to be done, without the consent of the Colonies, it can have no right to keep up any troops in the Colonies, or to march them through the country without their consent, which is repugnant to every idea of sovereignty on the one part, and of dependence on the other; besides, there can be neither restraints nor regulations of trade but what must fall within some of these descriptions of taxes. To oblige a planter to carry his products to a port of entry, when a vessel can take them in at his own landing-place, nay, to oblige a merchant to ship his goods from the customhouse-quay, when another wharf is more convenient to him, is to *command the planter and merchant to do certain things from whence expence will accrue.* The fees paid the officers of the customs for entries and clearances, are also expences charged upon the Colonies, and consequently taxes. Confining the Colonies to purchase commodities or manufactures in Great Britain,

tain, when they could purchase them at a cheaper rate elsewhere, is taxing them in this way of reasoning; obliging the Colonies to sell their products in Great Britain, or to land them there before they carry them to another market, is likewise a tax upon them—for in all these cases, they are *commanded to do something from whence expence accrues*.

All the taxes which are paid by the people in England, inasmuch as they serve to raise the price of labour or materials, and thereby raise the price of manufactures, are all taxes upon the people of the Colonies, who are obliged to purchase those manufactures at our prices, and may not get them from other countries.

It would be endless to trace this doctrine of taxes through all its consequences. I have already gone far enough to shew, that upon Mr. Dickenson's principles, where they cannot be imposed, there can be neither restraints upon trade, nor exercise of sovereign authority; and that if Great Britain does

not possess the right of taxing the Colonies, she has no right to exercise any jurisdiction over them ; but that the Colonies are, as Mr. Dickenson says they are, of themselves, “ a distinct community, or one political “ body of which each colony is a member, “ separated from the rest of the world,” and especially from Great Britain. Yet notwithstanding, these are clearly the consequences which must follow from his premise ; and that such are the consequences the Colonies mean should follow from them ; yet Mr. Dickenson, not caring to discover the whole of their purpose so fully at present, in the beginning of his second letter, thus expresses himself : “ The parliament unquestionably possess *a legal authority to regulate “ the trade of Great Britain and all her “ Colonies* : such an authority is essential “ to the relation between a mother country “ and her Colonies, and necessary for the “ common good of all. He who considers “ these provinces, as *states distinct from the “ British empire*, has very slender notions of “ justice, or of their interests : we are but “ *parts of a whole, and therefore there must “ exist*

“ *exist a power somewhere to preside and pre-*
 “ *serve the connection in due order; this power*
 “ *is lodged in the parliament.*” Again, in the
 same letter, he says, “ that we (the Colonies)
 “ may be legally bound, by act of parlia-
 “ ment, to pay any general duties on these
 “ commodities, that is, paper and glass
 “ &c. relative to the regulation of trade,
 “ *is granted*”. How it comes to pass that
 these general duties *do not occasion an*
expence to the people who pay them, Mr.
 Dickenson has not told us, or in what
 manner the parliament of Great Britain can
 exercise its *legal authority* to regulate the
 trade of the Colonies, and *preside over the*
the whole, and preserve the connection in due
order, without a power of commanding the
 Colonies *to furnish a single article* for such
 part of the national forces, as it may, for
 these purposes, be thought fit to station
 among them; or what sort of regulations
 of trade parliament can devise, from the
 observance of which no expence will ac-
 crue to the Colonies, are matters which he
 has not thought proper to explain.

But

But these are not all the difficulties which occur in this extraordinary performance. The definition of a tax, says this writer, in his fourth letter, is, that it is an *imposition on the subject, for the SOLE PURPOSE of levying money*. All taxes whatever, therefore, which are not imposed with *this sole purpose*, are no taxes at all ; and neither the imposing or the levying the tax, can therefore be the grievance, but *the purpose for which it is granted*, or the use to which it is applied. But in his ninth letter, he changes his opinion ; for, says he, “ if money be raised
 “ upon us by others, without our consent,
 “ for our defence, those who are the judges
 “ in *levying it*, must also be the judges in
 “ *applying it*. With what face can we dispute the fact, after having granted, that
 “ those who *apply* the money had a right to
 “ *levy it* ? Besides,” he goes on, “ *the right*
 “ *of levying is of infinitely more consequence*
 “ *than that of applying.*” The reference he makes to the practice in England, in order to elucidate his reasoning in this particular, is an equal proof of his knowledge

ledge of the constitution of this country, and of his qualifications as a critic upon its government. "The people of England," says he, who would burst out into "fury, if the crown should attempt to levy "money by its own authority, *have always* "assigned to the crown the application of "money."

Perhaps all these seeming absurdities and contradictions would be reconciled or obviated, if we rightly understood the account he gives us in the first page of his first letter, of the connection between Great Britain and her Colonies; and it is a pity his learned editor has not given the public a dissertation upon that most ingenious and instructive passage. "We are," that is, the Colonies are, says he "as much dependent on Great Britain, as a perfectly free people can be on another."

But the main objection, and on which all the other objections made by the Colonies against the right of parliament to impose taxes upon them, is founded, remains to be examined. "They tell us, that

" it is the true principle of government,
 " that no man should pay a tax to which
 " he does not consent, either in his own
 " person, or by his representative chosen by
 " him ; that the Colonies are not represented
 " in the British parliament, and therefore
 " cannot be taxed by it."

This doctrine, that taxation and representation upon the true principles of government must go together, is so well calculated to captivate the multitude in this country, and so flattering to the Americans, as it intirely abrogates the authority of parliament to tax the Colonies ; that it is not surprizing it has found partizans in Great Britain, and has been universally adopted in America, without much enquiry or examination into its foundation, in reason or fact. And yet, if it be applied, as in the instance before us, to an actual or *a distinct* representation of *all those who are taxed*, and no other will serve the purpose of the Colonies, it is not true of any government now existing, nor, I believe, of any which ever did exist. In this sense it neither is nor ever was true
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in Great Britain ! It is not true in any of the charter or royal governments in America : it is not true in the province of Massachusetts Bay, in which, by the last history of it, there appears not only to be a multitude of individuals, but even forty townships of freeholders now taxed, who have no distinct representatives : so far therefore is this doctrine of distinct representation and taxation from going together, “ being joined by God himself ; founded in the eternal law of nature ; having grown up with the constitution of England ; ” that it never existed, either in England, or any other country in the world.

The origin of parliament in England lies hid indeed in the obscurity of antiquity ; we only know, that antecedent to the times which our histories run back to, the great men of the realm, who held their lands in capite from the crown, together with the king, composed the supreme legislature. The consent of those who held their lands of the crown was therefore necessary, from time immemorial, to give being

being to every law, by which the people of England were bound. But it cannot be said, that these tenants in capite were then the representatives of the *people* of England, in any other sense of the term, than the lords of parliament may now be said to be *their representatives*. And when, from the frequent forfeitures of the great tenants, and the parcelling out their lands among the successive kings favorites; from the granting away the patrimony of the crown to sundry individuals, and from a variety of other causes, the tenants in capite became too numerous for all to assemble in parliament, and many of them were too poor to bear the charge of an attendance there; the device of sending a *few* of their body, as representatives of the whole of these lesser tenants, was hit upon. Yet, even these *deputies of the lesser tenants* were not the distinct representatives of the *people* of England; *they* distinctly represented those only who in themselves had a right to a share in the legislature, *and by whom they were deputed or elected.*

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In Doctor Robertson's celebrated history of Scotland, we have a full account of a similar transaction in that kingdom, where the constitution was the same with the ancient constitution of England; and a copy of the petition of the lesser tenants to parliament, for leave to send representatives, is there given in the appendix. But a still more recent instance to the same purpose is to be met with in the treaty of union between the two kingdoms. We there see the peers of Scotland, all of whom had an unquestionable right to a personal share in the legislature of that kingdom, relinquishing their individual right, and taking up with a right of sending sixteen of their body as representatives of the whole to the parliament of Great Britain. It is not pretended that these sixteen peers of Scotland are the distinct representatives of the *people* of Scotland, from their being elected by the peers of Scotland; and why should the knights of shires in that kingdom or in England be called the district representatives of the *people* of Scotland or of England, because they are elected by the *freeholders* in each kingdom? They distinctly represent those
who

who elect them, and who have a right by the constitution to be distinctly represented, and they distinctly represent no one else ; nor are the members sent to parliament by boroughs and corporations, more properly the distinct representatives of the people of Great Britain, than are the knights of the shires. All the corporations and boroughs who elect members for parliament, do it by virtue of a charter for that purpose from the crown, or by prescription, which, in law, presupposes a grant or charter beyond time of memory. The kings of England for many centuries constantly exercised the right of creating corporations, with the power of chusing members to parliament, and vested that power in many or in a few at their discretion ; some of these, particularly the two universities, were incorporated for that purpose so late as the reign of James the First ; and, unless it is restrained by the act of union of the two kingdoms, I do not know that this power has ever been taken away.

This

This right in corporations of electing representatives to parliament, is therefore clearly derived from the grant of the crown ; and the members of the corporation exercise that right, because the corporation *holds of the crown*. A corporation seems to be analogous to a great barony or county, held in capite from the crown, the tenant for the whole of which had a right to a personal share in the legislative ; but the crown choosing to divide the lands among a number of individuals, the whole right to a seat in the legislative assembly cannot be claimed by any one individual, it being the common or joint right of all the members. But they can by their election unite the right of the whole body in such person as they depute to represent their body. Hence does it appear, that the representatives sent to parliament by corporations, are the *distinct* representatives only of those who are members of the several corporations ; that is, of such as partake of these grants from the crown, and hold under them : for to say, that representatives chosen by perhaps twelve men,

or the majority of twelve, which is seven, incorporated by the crown for that purpose, are the *actual* or *distinct* representatives of the whole people, is to confound all ideas of language or things.

How then can it be said, that taxes imposed by a house of commons, constituted, as we have seen, by the freeholders in counties and members of corporations, are given by the consent of the majority of the people, or their deputies, at the time being.

It is, moreover, worthy of remark, that these members sent to parliament by the freeholders and corporations, are not called the *representatives of the people*, but the *commons in parliament*. They are so styled in all the old writs and records; they are so styled to this day in every act of parliament; and they act not only for their own particular communities, by whom they are severally elected, but each of them for the community of the whole.

The

The subjects of Great Britain are not, however, without their representatives, though the members who compose the House of Commons cannot be said to be distinctly so. Neither are they bound by laws, nor is their money taken from them without their own consent given by their representatives. *The King, Lords, and Commons are their representatives*; for to them it is that they have *delegated* their individual rights over their lives, liberties, and property; and so long as they approve of that form of government, and continue under it, so long do they consent to whatever is done by those they have intrusted with their rights.

“ Laws they are not (says Hooker) which
 “ public approbation hath not made so.
 “ But *approbation not only they give*, who
 “ personally declare their assent by voice,
 “ sign, or act, but also *when others* do it in
 “ their names, by *right originally at the least*
 “ *derived from them*. And to be command-
 “ ed *we do consent*, when that *society where-*
 “ *of we are part* hath at any time before
 F 2 “ *consented*

“ *consented*, without revoking the same after
 “ by the like universal agreement.” And
 Mr. Locke, who followed this learned
 investigator of the rights of mankind, in
 his answer to Sir Robert Filmer, after
 having shewn that the origin of all power
 is from the people only ; that every form
 of government, whether a democracy, an
 oligarchy, an elective or hereditary mon-
 archy, is nothing more than a trust delegated
 by the society to the person or persons so ap-
 pointed, lays it down as a fundamental maxim
 in all governments : “ That the *legislative* is
 “ the joint power of every member of the so-
 “ ciety, given up to that person or assembly
 “ which is legislator ; and that even the *execu-*
 “ *tive*, when vested in a single person, is to be
 “ *considered as the representative of the common-*
 “ *wealth.*” And he then adds ; “ Nobody
 “ doubts but an *express consent* of any man
 “ entering into society, makes him a perfect
 “ member of that society, a subject of that
 “ government. The difficulty is what
 “ ought to be looked upon as a *tacit consent* ;
 “ and to this I say, that every man that hath
 “ any

" any *possessions or enjoyment of any part of*
 " *the dominions of any government, doth*
 " *thereby give his tacit consent, and is as far*
 " *forth obliged to obedience to the laws of*
 " *that government during such enjoyment, as*
 " *any one under it.*"

Upon this principle, the king and the two houses of parliament, are by our constitution *representatives* of the legislative, as the king alone is of the executive power of the commonwealth ; and, upon this principle, every subject of Great Britain, when he is taxed by parliament, is taxed by his own consent, for he is then taxed by consent of those whom the society has impowered to act for the whole ; and every member of the community must therefore subscribe his tacit consent to all such taxes as may be imposed, or other legislative acts that may be done by those whom the society has appointed, as long as the form of government subsists. This is the *British constitution* ; and if the British subjects in America still continue to be part of our community, it follows that they also are represented by

the British legislative, and equally bound by its laws.

That the first inhabitants of the Colonies were part of the British community, and bound to obey its legislative power in all respects, as any other subjects at *the time of the establishment* of those Colonies, will not be denied. How then has that obedience been altered or released? Those Colonies were all created by charters or temporary authorities, from the executive power of this community, except in the cases of Jamaica, New York, and the late acquisitions of Quebec, the Ceded Islands, and the Two Floridas, which were conquests made by this community upon foreign powers, and such of their subjects as remained were incorporated with us under our laws and obedience. And it cannot, we have seen, be pretended, that this obedience has been altered or released by charters or authorities from the executive power; for, on the contrary, the obedience to the laws of Great Britain, *without any restriction*, is expressly reserved in every one of them, and particularly

cularly the right of taxation is mentioned and reserved to the parliament of Great Britain by the charter of Pennsylvania, in which colony Mr. Dickenson wrote his Farmer's Letters.

But suppose it had been otherwise; can it be contended, that the executive power of the crown, can, by any grant or authority, alter or annul the legislative power in the article of taxation, or any other? Will those who contend that this right of taxation belongs only to, and can only be exercised by the deputies of the people, contend at the same time for a right in the crown or executive to annul or restrain the legislative power, partly composed as it is of these deputies, in that very article of taxation? If they do, let them hear Mr. Locke in reply. He will tell them, that “ even the *legislative* “ *power itself* cannot transfer the power of “ making laws to any other hands; for it “ being but a delegated power from the “ people, they who have it cannot pass it “ over to others.” He says, moreover, that “ all obedience, which, by the most solemn

“ ties any one can be obliged to pay, ul-
 “ timately terminates in this supreme power,
 “ the legislative, and is directed by those
 “ laws which it enacts; nor can any oaths
 “ to any foreign power whatsoever, *or any*
 “ *domestic subordinate power*, discharge any
 “ member of the society from his obe-
 “ dience to the legislative, acting pursuant
 “ to their trust; nor oblige him to any obe-
 “ dience contrary to the laws so enacted,
 “ or farther than they do allow; it being
 “ ridiculous to imagine, one can be tied ul-
 “ *timately* to obey any power in the society
 “ which is not supreme.” He says in
 another place; “ there can be but one su-
 “ preme power, which is the legislative,
 “ to which all the rest are and must be
 “ subordinate.”

It is however pretended, that the lands
 in America lying without the realm, and
 appertaining to the king only, their possessors
 cannot from those circumstances be subject
 to the jurisdiction of parliament, whose au-
 thority is necessarily confined within the
 limits of the realm. This plea, it is pre-
 sumed,

fumed, cannot be made by the inhabitants of such lands as were conquered by the forces of the British state from foreign powers, or ceded to Great Britain by treaty. Those conquests or cessions are surely the dominions of the crown of Great Britain, not the private property of the king, which have thus been acquired by the efforts, the blood, and treasure of the community; and indeed Mr. Dickenson puts these out of the question in all that he says of the rights of the Colonies.

But does the discovery of countries by the subjects of the British state, or the cession of them by the natives, make those countries more particularly the private property of the king, than would the conquest of them by force of arms from a foreign prince, or the acquisition of them by treaty? The difference only lies in the change of the term, the *Crown* for that of the *King*; but that change has been made without authority, either of reason or fact. The kings of England never had personally, nor ever claimed to have any property in the
lands

lands in the Colonies. Those of them who carried their claims of prerogative the highest, never pretended to have any other title to those lands than what they derived from their possession of the crown of England, and they granted them under *that title* to their present possessors, or their ancestors; for all grants of lands in the Colonies have been made under the great seal of England, or by authority derived under the great seal of England, which is the same thing, from the first discovery of America to this day.

No man, at least no lawyer, will pretend, that the great seal of England is the private seal of the king. It is the seal of the state, and distinguishes the acts of the state from the private acts of the king; now, had the kings of England claimed to hold the lands in the Colonies as *their own private estate*, they would have granted them of their *own private authority*, and passed them under their own private seal, and not under the great seal of England. The very nature of the grant or charter is therefore an undeniable

able proof, that the lands in the Colonies are, and always have been, the possessions or dominions of the crown of England, and not the private personal property of the kings of England. And it is an equally undeniable consequence, that those who hold those lands under such grants or charters, or by whatever title which derives its authority originally or immediately under the great seal of England, *hold them of the crown of England, and as part and parcel of the realm*; for the crown's estate must necessarily be within the realm, since it is the estate or dominions of the crown (though not of the king) which make the realm. What then are the quit-rents which are paid by the possessors of lands in the Colonies to the crown, or to those who derive under the crown, but a tax imposed by authority of the great seal of England on such who should take possession of those lands, not only as an acknowledgment of their fealty and allegiance, *but for the purpose of revenue?*

Those quit-rents are a part of the *unappropriated* revenue of the state, and, *as such,*

such, become the property of the crown *without account*. But it is not the private property of the king ; for the king cannot alienate it, or give it away from the successor to the crown, for a longer term than he can alienate or give away other *unappropriated* revenues arising in England.

The lands in all the Colonies having therefore been clearly shewn to be part of the dominions of Great Britain, and the possessors of them to hold them under authorities and titles derived from the British state, Mr. Locke would require no other proof of the right of the legislative power of Great Britain to the obedience of the possessors of those lands ; for, speaking of the manner by which a man tacitly makes himself a subject of any country or government, he says :

“ It is commonly supposed, that a father
 “ could oblige his posterity to that govern-
 “ ment of which he himself was a subject,
 “ and that his compact held them ; whereas
 “ it being only a necessary condition annexed

“ to

“ *to the land, and the inheritance of an estate*
 “ *which is under that government, reaches*
 “ *only those who will take it on that condi-*
 “ *tion, and so is no natural tie or engage-*
 “ *ment, but a voluntary submission ; for every*
 “ *man’s children, being by nature as free as*
 “ *himself, or any of his ancestors ever were,*
 “ *may, whilst they are in that freedom, choose*
 “ *what society they will join themselves to,*
 “ *what commonwealth they will put them-*
 “ *selves under ; but if they will enjoy the in-*
 “ *heritance of their ancestors, they must take*
 “ *it on the same terms their ancestors had it,*
 “ *and submit to all the conditions annexed to*
 “ *such a possession.”* “ Whoever (says he in
 “ another place) by inheritance, *purchase,*
 “ *permission, or otherways, enjoys any part*
 “ *of the land so annexed to, and under*
 “ *the government of, that commonwealth,*
 “ *must take it with the condition it is un-*
 “ *der ; that is, of submitting to the govern-*
 “ *ment of the commonwealth under whose*
 “ *jurisdiction it is, as far forth as any sub-*
 “ *ject of it.”*

I have

I have quoted these passages from Mr. Locke's *Treatise upon Civil Government*, because his opinions in this treatise have been principally relied on as the foundation of many extravagant and absurd propositions which he never meant to encourage ; and because I have the highest regard in general for the good sense and free spirit of that excellent work, written to defend the natural rights of men, and particularly the principles of our constitution, when they were attacked both by force and fraud: although, at the same time, there are some passages in it, which probably the temper and fashion of that age drew from him, in which I can by no means agree with him, especially when he defines prerogative to be
 “ a power in the prince to act according to
 “ *discretion* for the public good, without
 “ the prescription of the law, and some-
 “ times even against it ;” and when he endeavours to prove that the executive power, by the just prerogative of the prince, hath
 “ a right to regulate, not by old custom, but
 “ by true reason, the number of members in
 “ all

“ all places that have a right to be distinctly re-
 “ presented ; because this would be manifestly
 “ for the good of the people, and therefore
 “ is, and always will be, just prerogative.”

The first of these propositions evidently sets up a dispensing power in the prince over the laws, when properly exercised : and by the latter, “ the prince by his own authority might vary the measures of representation, and those places which have a just right to be represented, which before had none ; and by the same reason, those cease to have a right, and be too inconsiderable for such a privilege which before had it.” Such an alteration of the constitution, and depriving many boroughs of the right to be distinctly represented, which they now enjoy, however advantageous it might be to the people of England that the members who compose the house of commons should be fairly and equally chosen, could not be lawfully made by the prerogative of the prince, in whom, by our constitution, no such power is vested ; and whose prerogative is as much ascertained and restrained by the laws, as the rights and properties of
 the

the subject. I mean not by this to throw any blame upon Mr. Locke, but merely to shew, that in a work of this extent there must be some inaccuracies and errors, and that it is not an infallible guide in all cases. He is not however to be charged with the opinions imputed to him by some late ignorant commentators, upon certain passages in this treatise, who have made him speak a language in the latter part of his eleventh chapter directly contradictory to the whole tenor of his work. His words are: "The
 " supreme power cannot take from any man
 " *any part of his property* without his *own*
 " *consent*; for the preservation of property
 " being the end of government, and that
 " for which men enter into society, it necessarily
 " supposes and requires that the
 " *people* should have property, without
 " which they must be supposed to lose that
 " by entering into society which was the
 " end for which they entered into it—
 " too gross an absurdity for any man to
 " own. Men therefore in society having
 " property, they have such a right to the
 " *goods which by the law of the community*
 " *are*

“ *are theirs*, that no body hath a right to
 “ take their substance, or any part of it,
 “ from them, without their *own consent* :
 “ without this they have no property at all ;
 “ for I have no property in that which an-
 “ other can by right take from me, when
 “ he pleases, against my consent. Hence
 “ it is a mistake to think, that the supreme
 “ legislative power of any commonwealth
 “ can *do what it will, and dispose of the*
 “ *estates of the subjects arbitrarily, or take*
 “ *any part of them at pleasure.*” Again :
 “ The prince or senate, however it may
 “ have power to make laws for the regu-
 “ lating of property between the subjects,
 “ one amongst another, yet can never have
 “ a power *to take to themselves* the whole,
 “ or any part of the subject’s property, with-
 “ out their own consent ; for this would be
 “ in effect, to leave them no property at
 “ all.”

That Mr. Locke in these passages means
 no more than, that the supreme legislative
 has no right to take the property of any indi-
 vidual of the community, and apply it to

his or their own *private use or purpose*, if not sufficiently evident from the expressions themselves, must appear so from the instance by which he explains them: Neither the serjeant (says he) that could command a soldier to march up to the mouth of a cannon, or stand in a breach where he is almost sure to perish, can command that soldier *to give him* one penny of his money; nor the general that can condemn him to death for deserting his post, or for not obeying the most desperate orders, can yet, with all his absolute power of life and death, *dispose of one farthing of that soldier's estate, or seize one jot of his goods.*"

Every one knows, that in all armies that ever had pay, the officers *punished* the soldiers by stoppages and pecuniary mulcts; and in so doing, *took the money out of the soldiers pockets*, but then they did it not *for their own private emolument*; they did it for the *public benefit*, and under authority of the supreme legislature. Mr. Locke could therefore

fore never have produced *this instance* in proof of the supreme legislative power having no right to take any part of the property of any man, and apply it for the public service: what he clearly means is this, that the king, lords, and commons of Great Britain have no right to pass an act, *vesting in themselves* the property of the people of Great Britain; nor in the most absolute countries, has the prince a right to seize on, and take away, the property of his subjects, and apply it to his *own use*, without the express consent of the proprietor; such a power not being within the authority vested in them by the community at their first institution; their power having been given them as a trust to be exercised for the general good, and for general purposes. But he never meant to question, or deny the right of the supreme legislative power, acting pursuant to their trust, to dispose of any part of the property of the people for the public safety and advantage. “ For (he says) this “ *arbitrary* disposing of the estates of the “ subjects, is not much to be feared in governments where the legislative consists

“ which he has or shall acquire, that do not
 “ already belong to any other government :
 “ for it would be a direct contradiction for
 “ any one to enter into society with others,
 “ for the *securing and regulating of property*,
 “ and yet to suppose *his land, whose proper-*
 “ *ty is to be regulated by the laws of the so-*
 “ *ciety, should be exempt from the jurisdiction*
 “ *of that government to which he himself, the*
 “ *proprietor of the land, is a subject.* By the
 “ same act therefore, whereby any one
 “ unites his person, which was before free to
 “ any commonwealth, by the same he unites
 “ his *possessions*, which were before free to
 “ it also ; and they become, both of them,
 “ *person and possession, subject to the govern-*
 “ *ment and dominion of that commonwealth as*
 “ *long as it hath a being.*”

Can any words more strongly express the
 right of the supreme legislature to tax or
 dispose of the property of the subject for
public purposes, than do these last quoted ?
 And those who would draw from any other
 more loose or general expressions of Mr.
 Locke, any argument to exempt the property

of any subject from taxes imposed by the supreme legislative for the *public service*, must impute to him such inconsistencies as Mr. Locke was incapable of, and charge him with contradictions which ought to destroy his credit, both as an honest man and a clear reasoner.

I have given this doctrine of representation and taxation, going together, so full a discussion, because it is the most important of all the pleas set up by the colony advocates, in support of their claim of exemption from the jurisdiction of parliament, and that which has had most influence on the minds of such of the people of England as have taken part with them in this unhappy contest.

I might indeed have brought it to a much speedier conclusion, and have exposed the absurdity and impracticability of the doctrine, from the *very principles* upon which its promulgers would establish it. They say; "That no man ought to be taxed, but by "his *own consent*;" or, in other words, "that the consent of those who *pay the taxes*"
 " is

“ is necessary to their being constitutionally
 “ imposed. That *this consent* must be given
 “ by the people *themselves who pay the taxes*,
 “ or by *their* distinct representatives chosen
 “ by them.” And these, they say, are the
 rights of Englishmen. Now, if these be the
 rights of Englishmen, I will undertake to
 say, there is scarce a session of parliament
 passes in which they are not most notoriously
 violated, and if parliament did not do so, it
 could lay no taxes whatever.

When the tax was laid upon hops, did
 the people who were to pay the tax, viz.
 the hop-growers, consent to it, either by
 themselves or their distinct representatives?
 Did the people in the cyder counties, or their
 distinct representatives, consent to the tax
 upon cyder? Is the land-tax kept up at;
 three shillings with the consent of all the
 land-owners in the kingdom, or that of all
 the knights of shires, their distinct represen-
 tatives? What tax is it indeed to which
 those who pay it, or their distinct represen-
 tatives, have all consented?—But if this
 actual and distinct consent of the taxed, or of



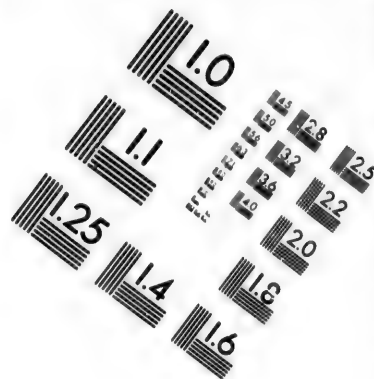
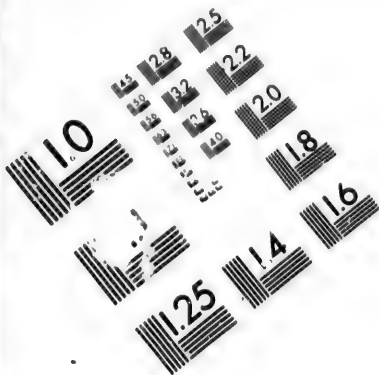
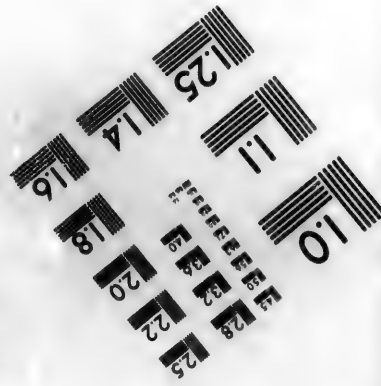
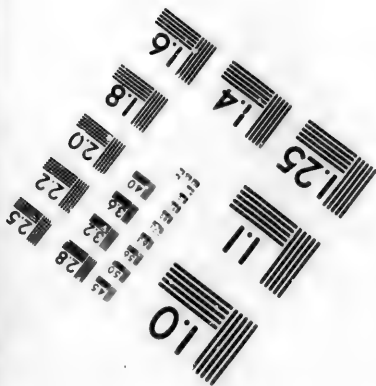
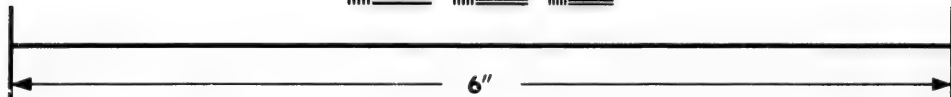
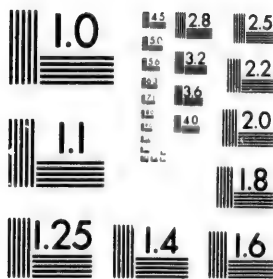


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their distinct representatives, be constitutionally necessary to their being taxed ; by consequence, whenever such consent is *not given*, no tax can be constitutionally imposed. If this be the case, he must be a patriot indeed who pays any tax whatever, since he can so easily discharge himself from it, by only saying he does not choose to pay it. I should be glad to see a calculation of the public revenue of Great Britain, or of any other country which could be raised *in this way*, no one paying towards it who did not do so by his own consent, or the consent of those he actually appointed to be his distinct representatives. But the most curious part of the argument has not yet been considered ; for it will follow from this doctrine, that the minority will in all cases controul the majority : nay, every individual member of parliament will have the power to stop the proceedings of all the others. For whoever says, *he is against any tax*, neither himself, nor the people whom he distinctly represents, can be liable to pay such tax ; because they do not, either by themselves, or their distinct representatives, consent to it.

This,

This, however, is not our meaning, say these admirable expounders of the rights of Englishmen. Then be so good to tell us, in defined terms, what it is you mean? Is it your meaning that no taxes can be imposed, but by the consent of the majority of the people who pay them, or by the consent of the majority of their distinct representatives? The *minority* then may constitutionally be made to pay taxes to which they do not consent, either by themselves or their distinct representatives. So that *almost half* the people of Great Britain may, it seems, be taxed without either their own or their distinct representatives consent. Now, why may not the people in the Colonies, who do not amount to near that number, be taxed also without their own consent, or the consent of distinct representatives elected by themselves? — One step farther, and we are got back to where we set out from,

The consent, you will perhaps say, of the majority of the distinct representatives of the people, of *necessity* involves the consent of the whole.

whole. So then it is necessary that the people should submit to pay taxes, to which neither themselves nor their distinct representatives do consent; and the whole meaning of this ingenious argument may be summed up in these few plain words:—That a people may constitutionally be taxed by those whom the constitution has vested with the power to impose taxes, which is the supreme legislature; and that every man who consents to that constitution or government, who is possessed of property under it, and enjoys its protection, consents to all taxes imposed by it, inasmuch as he *consents* to the authority by which they are imposed; and this conclusion will hold equally good when applied to the people in the Colonies, as it does for the people in Great Britain.

But although we have thus got within the circle of these magicians, yet, in respect to the issue of the dispute between us, the breaking the charm of this doctrine has not brought us one jot nearer to our purpose of a reconciliation with the Colonies. Neither indeed would it be advanced by leaving them in possession
of

of it; for should we admit, either upon principles of right in the Colonies, or of justice or expediency in Great Britain, that the Colonies ought to send members to parliament, the Colonies are ready to tell us, nay, they have told us so already, that they will not accept of our offer; for it is impossible for them, they say, to be represented in the British parliament.

Thus, whilst they exclaim against parliament for taxing them when they are not represented, they *candidly* declare they will not have representatives, lest they should be taxed—like froward children, they cry for that which they are determined to refuse, if it should be offered them. The truth however is, that they are determined to get rid of the jurisdiction of parliament *in all cases whatsoever*, if they can; and they therefore refuse to send members to that assembly, lest they should preclude themselves of this plea against all its legislative acts—that *they are done without their consent*; which, it must be confessed, holds equally good against *all laws*, as against taxes. For it is undoubt-

See app
P. LI

doubtedly a principle of the British constitution, “ *that no man shall be bound by any law to which he does not give his consent,*” of equal efficacy with that of his not being taxed, but by his own consent. In what manner however *that consent* is given, we have already seen ; and the futility and fallacy of the pretence, that it cannot be given but by *distinct* representatives, elected by those who pay taxes, or are bound by laws, have been sufficiently exposed,

The colony advocates however, not caring to develop their whole purpose *at present*, tell us, that by refusing to accept our offer of representatives, they only mean to avoid giving parliament a pretence for taxing them, which they say it is not necessary for parliament to do, as they have assemblies of their own in each Colony, who are the representatives of the people ; and who, being acquainted with their circumstances, can best judge what taxes they can bear, and what sums they ought to contribute to the public occasions, whenever his majesty shall call upon them for their aid.

The

The colony assemblies are indeed *but seven-and-twenty*, and perhaps it might happen, that they should all agree in opinion upon some *one point*; but I much fear that point would not be—to *lay taxes upon themselves*. There is much more reason to apprehend it might be as we have seen—not to *do so*. Mankind are in general apt enough to agree to *keep* their money, but not so frequently of one mind when the proposition is to *part* with it. But to take the matter on its fairest side, let us suppose these *twenty-seven states* all equally disposed to shew regard to his majesty's requisition—*provided they think the occasion fitting*. Upon what occasion then shall his majesty call upon them? Not to settle a permanent revenue for support of their own civil establishments; for he has already made requisitions to many of them, without end, for that purpose, and always without effect; and those few who have complied *most heartily regret it*. Shall it be for support of the military establishment kept up in time of peace? The continental Colonies tell us, “ they don't want our
“ troops;”

“troops; and if we keep any among them
 “we must pay them.” Shall it be for a
 fund to give presents to the Indians? The
 islands say, “they have nothing to do
 “with the Indians. Those who have
 “the benefit of their trade, and live upon
 “their lands, ought to give them presents.”
 Shall it be for discharge of the public debt?
 One and all will tell us, “that is the affair
 “of Great Britain alone.” Suppose then a
 war breaks out; the Indians attack the back
 settlers in Virginia—what will Carolina con-
 tribute for defence of that province? “Just
 “as much as she has ever done.” What
 will the Islands give? Exactly the same.
 Suppose the Barbary states quarrel with us;
 the fishing colonies, and the rice and sugar
 colonies, suffer by their depredations on the
 ships bound to Portugal and the Streights—
 what would Pennsylvania, Maryland, and
 Virginia, do in the matter? A war in
 Germany becomes the occasion of the re-
 quisition; rice, sugar, and tobacco all go
 thither, but no fish—why then should
 New England, Nova Scotia, or Quebec,
 give

give any thing? If it was for support of the Italian states, these colonies might indeed contribute something, as they buy their fish; but if that were the occasion, would Pennsylvania, Virginia, or Carolina do so?

The defence of our possessions in the East would be equally obnoxious to them all; and the preservation of our African trade and settlements, is an abomination to the middle and northern Colonies. A war with France might possibly occasion them to bestir themselves a little, but then it would be for *their own immediate defence*. For as they are all accessible to a naval force, they would with good reason apprehend themselves in danger, in case of a war with a maritime power.—Such was the late war, and such was their conduct in it; for so long as the continent of America was the theatre of war, the Islands did not contribute one single shilling for the defence of their Sister-colonies; and it was not until they apprehended an attack upon that province, that the assembly of South Carolina thought of raising troops;
 5 and

and the regiment they did raise in 1757, they confined to *act within the province*; and so soon as their apprehensions for their own safety subsided, they reduced it: nor was it until the Cherokees attacked their frontiers, in 1760, that they again took up arms.

I have thus far followed the Colonies in their own paths; and, instead of exposing the absurdity of their idea of a *polypus* government, where a head sprouts out of every joint, I have endeavoured to make the best of it, and even in that view shewn it to be monstrous and impracticable. Little less so indeed than it would be. In England, where there are but *fifty-two counties*, should the crown make requisitions to each of their *grand juries*, who have authority to assess money *for local purposes* upon the respective inhabitants, as well as the colony assemblies, instead of applying to parliament, to provide for the exigencies of the state? and what sort of public revenue or credit we should then have, is easily to be imagined.

Indeed,

Indeed, to do justice to the candour of the New York assembly, they give strong intimation of its being their opinion, that the raising a revenue for *general purposes*, by grants from the several colony assemblies, is impracticable; and that either it must be done by parliament, or cannot be done at all. For in one of their resolutions, the 18th of December, 1765, they say, “*That the impracticability of inducing the Colonies to grant aids in an equal manner proportioned to their several abilities, does by no means induce a necessity of divesting the Colonies of their essential rights.*”

What then is to be done? Are the Colonies to pay nothing in *any way* to the public charges? and is the island of Great Britain to pay all? “No,” say the colony advocates, “that is not the case; for we contribute towards the revenue raised in Great Britain, by purchasing your manufactures with the taxes upon them, when we could buy them cheaper at other markets; we lay out all the money we have or can procure with you; and what can

H

“ you.

“ you desire more of us ?” How travelling improves the genius, and sharpens the wit ! If the ancestors of the inhabitants of the Colonies had remained in England to this day, I question much if they would have once thought of telling parliament, that they ought not to tax them, because they laid out all their money in the purchase of British products or manufactures ; and yet they might certainly have made that plea as truly at least in the one case, as they do in the other.

What county in England is it, whose inhabitants don't lay out their money in the purchase of the products or manufactures of Great Britain and yet I never heard that they did not all *pay taxes notwithstanding* : and as avarice is certainly not the vice of the age, were all taxes to be taken off the people of England, there can be little doubt but our trade, both foreign and domestic, would be greatly increased thereby, perhaps full as much as our whole trade to America is worth. The misfortune, however, is that we cannot do what we wish in all cases ; for such are

the circumstances of the times, that a fleet and army must be maintained for the defence of the state, and even for the protection of the trade both of the Colonies and of Great Britain. This cannot be done without revenue, and a revenue cannot be raised without taxes. The question then is not, whether *it would not be better for our trade that we laid no taxes upon either people, upon the inhabitants of Great Britain, or of America?* But whether, *since taxes are absolutely necessary*, they should not be *equally imposed upon all the subjects who derive safety and benefit from the force maintained by the revenue they produce?* Whenever therefore the people in the Colonies are refused by Great Britain, the protection of their fleets and armies, *then, and not till then*, may the Colonies complain that they are taxed for their maintenance.

In the course of this discussion of the Colonies pleas, I have occasionally taken notice of their charters from the crown which they once held forth, as having conveyed to them all the rights and privileges

of Englishmen, and exemptions from taxes imposed by parliament; but as all those charters reserved the authority of parliament, either in general or special terms, and the secret purpose of the Colonies *now* being to get rid by piece-meal of all parliamentary jurisdiction whatever, their advocates have not of *late* relied much upon their charter rights; on the contrary, when the reservations in their charters have been urged against them, they appeal to acts of parliament, as a superior authority for limiting and expounding the expressions in their charters. Dr. Franklin, in his examination before the House of Commons, says, “ he “ knows there is a clause in the Pennsylvania “ charter, by which the king grants that he “ will levy no taxes on the inhabitants, unless it be with the consent of the assembly, “ or by *act of parliament*; but that they *understand it* thus: By the same charter, “ *and otherways*, they are intitled to all the “ privileges and liberties of Englishmen. “ They find in the *great charter*, and the “ *petition and declaration of rights*, that one “ of the privileges of English subjects is,

“ that

" that they are not to be taxed but by their
 " *common consent*; they have therefore relied
 " upon it from the first settlement of the
 " province, that the parliament never *would*,
 " nor *could*, by colour of *that clause* in the
 " charter, assume a right of taxing them,
 " till it *had qualified itself* to exercise such
 " right by admitting representatives from
 " the people taxed." Such being the case,
 I shall spend no more time in examining
 their colony charters, but proceed to enquire,
 by what means the great charter and the bill
 of rights can be brought to support their
 claim of exemption from taxes imposed by
 the authority of parliament.

The great charter granted by king John
 in 1215, says, " That the king engages not
 " to impose any taxes without summoning
 " the archbishops, the abbots, the earls,
 " the greater barons, and the tenants in
 " capite." The 17th of Edward the 2d
 is more explicit. It says, " that *whatever*
 " *concerns the estate of the realm and the people*,
 " shall be treated of in parliament by the
 " king, with the consent of the prelates, earls,

“ barons and commonalty of the realm as hath
 “ been customary heretofore.” The statute
 of the 15th of Edward the second declares,
 “ that the statute of Magna Charta, Charta
 “ Foresta, and the other statutes, were
 “ made by the king and his predeceffors, the
 “ peers, and the commons of the realm.”

The bill of rights assented to by king
 William, among other things, declares,
 “ That the pretended power of suspending
 “ laws, or the execution of laws by regal
 “ authority, without consent of parliament,
 “ is illegal.” “ That the levying money *for*,
 “ *or to the use of the crown*, by pretence of
 “ prerogative, *without grant of parliament*
 “ for longer time, or in other manner than
 “ the same is, or shall be granted, is illegal.”

It should seem to be the English mean-
 ing of these several declarations, that the
 right of imposing taxes, and of exercising
 all other legislative powers, was in the three
 estates of the realm, which is the parlia-
 ment only; and that all taxes which should be
 imposed, and all acts which should be done by
 any

any other authority, were illegal. But as Dr. Franklin says, “ the *same words* have “ not always the *same meaning* in America “ that they have in England ;” and it is therefore incumbent on us to look for the American meaning of the several expressions contained in these declarations ; and for this purpose, the ingenious author of the *Considerations on the Propriety*, &c. has provided us with a very curious glossary. This gentleman tells us, that by these expressions which we understand to be declaratory of the right of parliament to impose taxes and make laws, parliament really meant to say, *that it had no such powers whatever, at least* in respect to the Colonies, but that those powers belonged to the colony assemblies only. His words are, “ the common law, the great charter, “ and the bill of rights, are so far from declaring with one voice, that the inhabitants “ of the Colonies shall be taxed by no other “ authority than that of the British parliament, *that they prove the contrary* ; for “ the *principle* of the common law is, that “ no part of their property shall be drawn “ from British subjects, without *their con-*

“ *sent* given by those *they depute to represent*
 “ *them* ; and this principle is enforced by the
 “ declaration of the great charter, and the
 “ bill of rights.” “ In Great Britain, says
 “ he, *the consent of the people is given by the*
 “ *House of Commons*, and as money had been
 “ levied *there* for the use of the crown, by
 “ pretence of prerogative without *their* con-
 “ sent, it was properly declared at the Re-
 “ volution, that the levying of money by
 “ pretence of prerogative without grant of
 “ parliament, i. e. *without their consent who*
 “ *are to pay it*, is illegal.” He goes on,
 “ the word *parliament* having been made use
 “ of, the *letter* of the declaration is adhered
 “ to, and the consequence drawn, that no
 “ British subject can be legally taxed but by
 “ the authority of the British parliament
 “ against the *spirit and principle* of the de-
 “ claration, which was aimed only to check
 “ and restrain the prerogative, and to esta-
 “ blish the necessity of obtaining *the consent*
 “ *of those on whom taxes were to be levied.*”

Here

Here we perceive, that the *word parliament* means, in respect to Great Britain, the *House of Commons*; that the *consent of parliament to impose a tax*, means the *consent of those who are to pay the tax*; that the word *parliament*, instead of meaning the king, the prelates, earls, barons, the tenants in capite, or the commonalty of the realm, as *Magna Charta*, &c. definite it, means in respect to the Colonies, the house of burgesses in Virginia, and the other colony assemblies.

I will not affront the reader's understanding, by making any further comment on this curious performance, which it is said operated so forcibly on the minds of some extraordinary persons in this country, as to lead them to adopt the cause of the Colonies, and to justify their resistance of acts of parliament. Neither will I further investigate the various arguments of the several colony advocates, in support of their claim to exemption from the jurisdiction of parliament: I have shewn the main branches to be unfound,

found, and the lesser, which sprout from them, must of course whither and decay.

My task is not however yet compleated, for should all objections against the right of parliament to levy taxes in the Colonies be found weak and frivolous, the *hardship* and *injustice* of compelling the Colonies to contribute to the relief of the people of England, from any part of those burdens which the late war laid upon them, or which the expence of the forces kept up in America, since the peace have occasioned, are still insisted on.

The late war, though commenced in America, and occasioned by a dispute about American territories, was not, say the colony advocates, a colony quarrel; nor are the acquisitions made by the crown in the course of it, and retained by the treaty of Paris, of any advantage to the inhabitants of the old provinces; on the contrary, the value of their possessions has been much lessened by the addition of such extensive territories. But not to injure their cause by abridging their arguments, I will set them down in their own words, and at full length as I find

find them in Dr. Franklin's Examination, and in the Farmer's Letters.

Dr. Franklin thus delivers himself before the House of Commons in 1765: " I know
 " the last war is commonly spoke of here, as
 " entered into for the defence, or for the sake
 " of the people of America. *I think it quite*
 " *misunderstood*. It began about the limits
 " between Canada and Nova Scotia, about
 " territories to which the crown indeed laid
 " claim, but were not claimed by any British
 " colony: none of the lands had been grant-
 " ed to any colonist; we had therefore no
 " *particular concern or interest in that dispute*.
 " As to the Ohio, the contest there begun
 " about *your* right of trading in the Indian
 " country, a right *you* had by the treaty of
 " Utricht, which the French infringed;
 " they seized the traders, and their goods,
 " which were *your* manufactures; they
 " took a fort which a company of *your* mer-
 " chants and their factors and correspond-
 " ents had erected there, to secure that
 " trade. Braddock was sent with an army
 " to retake that fort (which was looked on
 " *here*

“ *here as another encroachment on the king’s*
 “ *territory) and to protect your trade. It*
 “ *was not till after his defeat (in 1755),*
 “ *that the Colonies were attacked. They*
 “ *were before in perfect peace with both*
 “ *French and Indians. The troops were not*
 “ *therefore sent for their defence. The trade*
 “ *with the Indians, though carried on in*
 “ *America, is not an American interest.*
 “ *The people of America are chiefly farmers*
 “ *and planters; scarce any thing they raise or*
 “ *produce is an article of commerce with*
 “ *the Indians. The Indian trade is a British*
 “ *interest; it is carried on with British ma-*
 “ *nufactures for the profit of British mer-*
 “ *chants and manufacturers; therefore the*
 “ *war, as it commenced for defence of ter-*
 “ *ritories of the crown, the property of no*
 “ *American, and for the defence of a trade*
 “ *purely British, was really a British war.*”

Having been asked, “ Is it not necessary
 “ to send troops to America to defend the
 “ Americans against the Indians?” The
 Doctor replies, “ No; by no means: *it*
 “ *never was necessary. They defended*
 “ *themselves when they were but an hand-*
 “ *ful,*

“ ful, and the Indians much more numerous. *They continually gained ground, and have driven the Indians over the mountains without any troops sent to their assistance from this country.*”

Mr. Dickenson, in his Farmer's Letters, letter the eighth, tells the inhabitants of the British Colonies, “ that in fact, however
 “ *advantageous the subduing or keeping any of*
 “ these countries, viz. Canada, Nova Scotia,
 “ and the Floridas, may be to Great Britain, *the acquisition is greatly injurious to*
 “ *these Colonies.* Our chief property consists
 “ in lands; these would have been of a
 “ *much greater value, if such prodigious additions had not been made to the British territories on this continent.* The natural
 “ increase of our own people, if confined
 “ within the Colonies, would have raised
 “ the value still higher and higher every
 “ fifteen or twenty years: besides, we should
 “ have lived more compactly together, and
 “ have been therefore more able to resist
 “ any enemy; but now the inhabitants will
 “ be thinly scattered over an immense re-
 “ gion,

" gion, as those who want settlements will
 " chuse to make new ones, rather than pay
 " great prices for old ones. These are the
 " consequences to the Colonies of the hearty
 " assistance they gave to Great Britain in
 " the late war ;—*a war undertaken solely for*
 " *her own benefit.* The objects of it were,
 " the securing *to herself* the rich tracts of
 " land on the back of these Colonies with
 " the Indian trade, and Nova Scotia with
 " the fishery. *These and much more has that*
 " *kingdom gained ; but the inferior Animals,*
 " that hunted with the *Lion*, have been am-
 " ply rewarded for all the sweat and blood
 " their loyalty cost them, by the honour of
 " having sweated and bled in such compa-
 " ny." " In truth (he concludes) Great
 " Britain *alone* receives any benefit from
 " Canada, Nova Scotia, and Florida ; and
 " therefore she alone ought to maintain
 " them. The old maxim of the law is
 " drawn from reason and justice, and never
 " could be more properly applied than in
 " this case—*Qui sentit commodum, sentire*
 " *debet et onus :* they who feel the benefit
 " ought to feel the burden."

The

The high rank Dr. Franklin so fitly holds among the philosophers of the age, the honourable testimony borne to his literary merit by the university of Oxford, and his great knowledge of the colony affairs, must give his evidence a degree of credit little short of *proofs of holy writ* ; more especially when it is considered, that although an oath had not been administered, yet his testimony was called for by the great council of the nation, upon a matter of the highest importance to the state, and given with suitable solemnity. Mr. Dickenson's private character is not indeed so well known, but it is very respectable ; and as the spirit he was endeavouring to infuse into his countrymen must soon have carried them to make their appeal to heaven, he cannot surely be suspected of attempting to rouse them by falsehoods to an undertaking, for the success of which they were to depend on the favour of the Almighty. How shall I then venture to controvert the assertions of either of these gentlemen ? The evidence of other individuals, however respectable, will be thought
 insuf-

insufficient, as none other can be supposed to have had equal means of information.—The opinion of governors or military commanders, would be deemed partial, either to themselves or this country, and the informations transmitted to ministers are always suspected to be adapted to the taste of the minister, or suited to serve some particular purpose. The evidence which I shall therefore have recourse to, is no other than that of the assemblies of the Colonies of Virginia and Massachusetts Bay ; the one colony situated in the neighbourhood of the Ohio, and the other bordering upon Nova Scotia. The members of those assemblies must therefore be supposed to have had as competent knowledge of the state of affairs in their respective countries, and of the causes of the late war, as either Doctor Franklin or Mr. Dickenson.

Copy of a Message from the General Assembly of Massachusetts Bay to Governor Shirley, 4th January 1754.

“ IT is with great gratitude, that we acknowledge the many instances of his majesty's paternal care for *the security of his good subjects of this province*, more especially that of late signified to your excellency, by a letter from the earl of Holderness, one of his principal secretaries of state (a copy of which your excellency hath been pleased to lay before us); ‘ That you should be upon
 ‘ your guard, and put the province under
 ‘ your government into a condition at all
 ‘ events, to resist any hostile attempts which
 ‘ may be made upon it.’

“ In pursuance of this letter, your excellency having recommended to us the repairing and strengthening the several forts and garrisons of this province, and putting the whole into a proper state of defence, we have accordingly made provision for doing it.

I

“ But,

“ But upon this occasion
 we beg leave to represent to your
 excellency, that his majesty's subjects of this
 province have at all times exerted themselves,
 even beyond their abilities, not only for the
 defence and security of his subjects and terri-
 tories within our limits, and the preservation
 and protection of other his majesty's territo-
 ries, but even in making valuable acquisitions
 to his majesty's crown ; the several instances
 of which during the late war, we need not
 repeat to your excellency, they having been
 done upon your recommendation and under
 your direction.

“ The consequence of this we flattered
 ourselves would have been an effectual secu-
 rity against future danger, from any encroach-
 ments or invasions of our French neigh-
 bours ; but it is with great concern that we
 find the French have made such extraordi-
 nary encroachments, and taken such mea-
 sures, since the conclusion of the late war,
*as threaten great danger, and perhaps in
 time, even the intire destruction of this pro-
 vince*

vince (without the interposition of his majesty) notwithstanding any provision we can make to prevent it.

“ This colony, by the great number of men it supplied and lost in the reduction and securing the island and forts of Cape Breton ; the troops sent from hence by your excellency from time to time for the relief and protection of Annapolis Royal, without which the whole province of Acadia, or Nova Scotia, must have fallen into the hands of the French ; the expence occasioned to it by the late intended expedition against Canada ; as also for an attempt against Crown Point, which *was rendered fruitless by other governments not joining with us* ; and by our great expence, both of men and money, during the course of the late war, in providing for the security and protection of our large extended frontier, and otherwise, *is so much reduced, as to be less able to defend itself* against any attacks that may be made upon it, in case of a rupture between the two crowns. Whereas, on the other hand, *the French are in a much better situation to annoy it*, than they were at the

commencement of the late war; for they have, since the conclusion of the peace, erected a fort on the isthmus of the peninsula near Bay Verte, by means of which they maintain a communication, by sea, with Canada, St. John's island, and Louisbourg; and at about thirteen miles distance from that fort, they have built a block-house; and at three miles from that, another large strong fort, situated within half a mile of the basin of Chegnecto in the Bay of Fundy, and thereby have secured a communication between that fort and the river of St. John's, on the west side of the said bay.

“ Near the mouth of St. John's river, they have possessed themselves of two forts formerly built by them, whilst they had a right to hold Acadia; the nearest of which to the sea they have (likewise since the conclusion of the peace) repaired, fortified with cannon, and garrisoned with regular troops; and have erected another strong large fort at twenty leagues distance up the river. They have (according to the best intelligence) made very considerable settlements upon it; and by these means they have

have secured the Indians inhabiting that river, computed at between four and five hundred families, in their interests, and carry on an exclusive furr trade with the French at Louisbourg, through the Bay of Fundy, where it is well known French ships of war have constantly entered since the conclusion of the peace, and loaded with furs to a considerable value at the mouth of that river, which trade the English were in possession of until the late war.

Thus, by their encroachments since the conclusion of the peace, the French have possessed themselves not only of the isthmus of the peninsula of Nova Scotia, with Bay Verte, in the Gulph of St. Lawrence, on the one side, but of the river of St. John's, with the whole west side of the Bay of Fundy, on the other, where the crown heretofore used to maintain forts, during their possession of Acadia, or Nova Scotia.

How fatal the consequence of these encroachments may be, if the French should continue in the possession of them till a rup-

ture happen between the two crowns, *not only to the eastern parts of his majesty's territories within this province, which border upon Nova Scotia; and in particular to his majesty's woods, from whence the greatest part of the masts, yards, and bowsprits, with which his royal navy are supplied, and which would feel the immediate effects of these encroachments, but also in time to the whole of this province, and the rest of his majesty's territories upon this continent; your excellency is so well apprised, that we need not set them forth here.*

“ Whilst the French held Acadia under the treaty of St. Germain, *they so cut off the trade of this province, and galled the inhabitants with incursions into their territories, from their forts at the river Pentagoet and St. John's, that Oliver Cromwell, then protector, found it necessary, for the safety of New England, in 1654, to make a descent by sea into the river of St. John's, and dispossess them of that, and all their forts in Acadia. And after that province was restored to the French, in consequence*
of

of the treaty of Breda in 1667, by king Charles the Second, *this colony felt again the same mischievous effects from their possessing it*; infomuch that, after forming several expeditions against it, the inhabitants were obliged, in the latter end of the war in queen Anne's reign, to represent to her majesty, *how destructive the possession of the Bay of Fundy and Nova Scotia by the French was to this province, and to the British trade*; whereupon *the British ministry thought it necessary to fit out a formal expedition against that province, with English troops*, and a considerable armament of our own, under general Nicholson, in 1710, when it was again reduced to the subjection of the crown of Great Britain; but by the late encroachments of the French, especially upon St. John's river, and the west side of the Bay of Fundy, which borders on this province, we are, in case of a rupture, *liable to feel more mischievous effects than we have ever yet done, unless his majesty shall be graciously pleased to cause them to be removed.*

“ Besides these late encroachments, whereby we may be more immediately exposed on the eastern parts of the province, there is another (though of a longer standing) from whence we have been greatly annoyed in the late war, in the western parts of it, *and from whence we shall always be exposed to the greatest danger on that side, without some further check than there is at present;* we mean the French at Crown Point.

“ This, may it please your excellency, is the rendezvous for all their forces, the grand magazine for their stores of all sorts, and the place to retreat to on every occasion, when they think proper to make any incursions upon *our western frontiers, or any other* of his majesty's provinces to the westward; so that if the French are suffered to continue in the possession of that fort, without another's being erected to curb it, it will (in our apprehension) *greatly endanger the loss of the Indians of the Six Nations to his majesty, and thereby distress all the provinces.*

“ Being thus exposed on every side, and having a large frontier to defend, the doing of which hitherto has been a great expence of blood and treasure to us, we are very sensible of the necessity of his majesty's Colonies affording each other mutual assistance; and we make no doubt but this province will, at all times, with great chearfulness, furnish their just and reasonable quota towards it.

“ All which we beg your excellency would be pleased to represent to his majesty, in such manner as you shall think most proper.”

A true copy attested.

J. WILLARD, Secretary.

Extract

Extract of a Message from the Council,
and House of Representatives of the Pro-
vince of the Massachusetts Bay, to Go-
vernor Shirley, in Answer to his two
Speeches, in March and April 1754.

“THE council and house of represen-
tatives of this his majesty's province,
have given very great attention to the two
speeches which you have been pleased to
make from the chair on the 28th March
and the 2d of April. We are sensible they
contain *matters of the last importance, not only
to the inhabitants of this government, but to
every other of his majesty's subjects in America,*
to the British interest in general, and to the
interest of all Europe,

“ It now evidently appears, that the
French are far advanced in the execution of
a plan projected *more than fifty years since,*
for the extending their possessions from the
mouth of the Mississippi on the south to Hud-
son's Bay on the north, for securing the vast
body of Indians in that inland country, and
for

for *subjecting this whole continent to the crown of France.* This plan, agreeable to the genius and policy of the French nation, was laid for a future age; the operation of it has been gradual, and almost insensible, *whilst the British governments in the plantations have been consulting temporary expedients, and they are in danger of continuing so to do, until it be too late to defeat it.* And however improbable it may seem, that this scheme should succeed, since the French inhabitants on the continent at present bear but a small proportion to the English; yet there are many other circumstances which *give them a great advantage over us, and which, if not attended to, will soon overbalance our superiority in numbers.* The French pay no regard to the most solemn engagements, but immediately after a peace, take and keep possession of a country, which by treaty they had just before expressly ceded; whilst the English in the plantations, afraid of incurring displeasure, and of being instrumental of bringing on a war in Europe, suffer these encroachments to be made and continued. The French in time of peace
are

are continually exciting the Indians settled among them, to come upon our frontiers, to kill and captivate our people, and to carry their scalps and prisoners to Canada, where, *as we have full evidence, a reward is given for them; and by this means we are prevented from extending our settlements in our own country; whilst the English, from the principle just now mentioned, scruple to avenge themselves by carrying the war into the Indian settlements, lest they should annoy his majesty's allies, amongst whom our most barbarous enemies are settled, and by whom they are cherished and encouraged.*

“ The French have under their influence by far the greatest part of the Indians on the continent; whilst the English, by the different measures of the several governments, are in danger of losing the small proportion which at present are attached to them. The French have but one interest, and keep one point in view; the English governments have different interests, are disunited, some of them have their frontiers covered by their neighbouring governments, and not being immediately

ately affected seem unconcerned. The French are supported by the crown and treasure of France, which seems now more than ever to have made the plantations the object of its attention; the English governments are obliged to carry on any schemes at their own expence, and are not able long to support any great undertaking.

“ These are some of the disadvantages which the English at present labour under, and they are not likely to be removed *without his majesty's gracious interpositions*. We therefore desire your excellency to represent to his majesty the *exposed, hazardous state of these his governments*, and humbly to pray, that he would be pleased to cause the *most effectual measures to be taken for the removal of any French forts or settlements, that are or may be made in any part of his territories on this continent; and in particular, that the subjects of the French king may be compelled to quit the province of Nova Scotia*, where, in direct violation of the most express agreement to the contrary, they are daily increasing and fortifying themselves;

selves; that his majesty would allow and order, that, whensoever the Indians, who are settled among the French, or are under their direction and controul, shall captivate and destroy his English subjects, his respective governments shall suffer and encourage the Indians, who are in the English interest, to make reprisals upon the French; there being no other way of putting a stop to the incursions of the French Indians, or of forwarding the settlement of our frontiers."

Extract

Extract of an Address from the Council
and Representatives of the province of
Massachusetts Bay, to Governor Shirley,
October 30th, 1754

“ **W**E very well knew before we
engaged in this expedition, that
an heavy charge must be the necessary
consequence of it; and here we would
humbly beg leave to represent to your ex-
cellency, that, although we have, and shall
at all times chearfully exert our utmost
strength in the defence and security of his
majesty's American dominions, yet we ap-
prehend it *impossible, in the present distress-*
ed circumstances of the province, to main-
tain a force necessary for the defence of so ex-
tensive a frontier; and therefore we must
humbly rely upon his majesty's paternal good-
ness, through the interposition of your ex-
cellency's good offices, *for assistance, as to*
the charge we have been, and may be at;
and rest assured, that we shall never be ex-
posed to ruin by our zeal for his majesty's
service; especially as what we have done is
for the safety, not only of this, but all his
majesty's governments.

“Your excellency could not have communicated to us any advices more acceptable, than those which you have received from the right honourable Sir Thomas Robinson, one of his majesty's principal secretaries of state. His majesty's great condescension, in thus signifying his royal approbation of our conduct, has made a very sensible impression upon us, which cannot easily be effaced. We hope we shall never render ourselves unworthy of his royal favour.”

Extract

Extract from the Address of the Assembly
of Virginia to the King, 1754.

“ **A**S the endeavours of the French to establish a settlement upon *our frontiers*, is a high insult offered to your majesty, *and if not timely opposed with vigour and resolution, must be attended with the most fatal consequences* ; we have (notwithstanding the great poverty of the colony, and the low condition of the public revenue, occasioned by the bad state of our tobacco trade, and a large debt due from the country, for raising and maintaining of soldiers upon the expedition against Canada in the year 1746) granted a supply of *ten thousand pounds* towards defraying and protecting your majesty's subjects against the encroachments of the French, which, *though not sufficient to answer all the ends for which it is designed, is the utmost that your people under their present circumstances are able to bear.* We therefore most humbly beseech your majesty, *to extend your royal beneficence* to us your loyal subjects, that we

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may

may be enabled effectually to defeat the *unjust and pernicious designs* of your enemies."

Besides these addresses from the assemblies of Massachusetts Bay and Virginia, there is a representation made by the commissioners from the several Colonies assembled at Albany in July 1765; an extract from which, I think it proper to lay before the public on this occasion, as speaking the sense of all the Colonies *at that time*; and I shall accompany it with an extract from the speech of the famous Sachem Hendrick, to those commissioners.

Extract

Extract from the Draught of a Representation of the Commissioners met at Albany, July 9th, 1754.

“ **T**HAT they (the French) are continually drawing off the Indians from the British interest; and have lately persuaded one-half of the Onondaga tribe, with many from the other nations along with them, to remove to a place called Oswegchie,, on the river Cadaraqui, where they have built them a church and fort; and many of the Senecas, the most numerous nation, appear to be wavering, and rather inclined to the French: and it is a melancholy consideration, *that not more than 150 men of all the several nations have attended this treaty, although they had notice, that all the governments would be here by their commissioners, and that a large present would be given.*

“ That it is the evident design of the French to surround the British Colonies; to fortify themselves on the back thereof; to

take and keep possession of the heads of all important rivers ; to draw over the Indians to their interest, and with the help of such Indians, added to such forces as are already arrived, and may hereafter be sent from Europe, to be in a capacity of making a *general attack on the several governments* ; and if at the same time a strong naval force be sent from France, there is the utmost danger, that *the whole continent will be subjected to that crown* ; and that the danger of such a naval force is not merely imaginary, may be argued from past experience ; for if it had not been for the most extraordinary interposition of heaven, every sea-port town on the continent, in the year 1746, might have been ravaged and destroyed by the Squadron under the command of the duke d'Anville, notwithstanding the then declining state of the French navy, and the further advantage accruing to the English from the possession of Cape Briton.

“ That the said Colonies being in a *divided, disunited state, there has never been any joint exertion of their force, or councils, to*
repel

repel or defeat the measures of the French;
and particular Colonies are unable and un-
willing to maintain the cause of the whole.

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“ That it seems absolutely necessary, that
speedy and effectual measures be taken to
secure the Colonies from the SLAVERY they
are threatened with.”

Extracts

Extracts from the Proceedings of the Congress at Albany in 1754.

Part of Hendrick's Speech, 2d July, 1754:

“ ’TIS your fault, brethren, that we are not strengthened by conquest; for we should have gone and taken Crown Point, but you hindered us; we had concluded to go and take it; but we were told it was too late, and that the ice could not bear us. Instead of this, *you burnt your own fort at Seragbtoga, and run away from it, which was a shame and a scandal to you.*

“ Look about your country and see; you have *no fortifications* about you; no, not even to this city (Albany); ’tis but one step from Canada hither, *and the French may easily come and turn you out of your doors.*

.....
.....

“ Look

“ Look at the French, they are men ; they are fortifying every where ; but, *we are ashamed to say it, you are all like women, bare and open, without any fortifications.*”

It would be painful to me to point out the direct and palpable contradictions to the assertions of the two gentlemen before-mentioned, which may be collected from these papers. I shall therefore leave it to my readers to make their own remarks upon so delicate a subject ; but to do justice to my own argument, I must observe, that these representations of the assemblies and commissioners are all dated in the year 1754, antecedent to the arrival of the two regiments under general Braddock in America, and consequently long before his defeat, or the commencement of hostilities between Great Britain and France in Europe, or between the regular troops of the two kings in America. Whoever therefore will give credit to those representations, must be convinced that the late war was not occasioned by *a dispute in*
which

which the Colonies had no particular concern or interest ; nor will they think, that the Colonies were in perfect peace with the French and Indians before the defeat of general Braddock in 1755. as little will they be inclined to believe, that the subduing and keeping Canada, Nova Scotia, and Florida, is greatly injurious to the old Colonies ; that Great Britain alone receives any benefit from their being added to the British dominions, and that she alone ought to maintain them.

But all that ~~has~~ been urged against our claims, cry the Colony advocates, are novel doctrines, we will not dispute about them ; all we desire and sue for is our *former* liberties ; we are loyal subjects of the king, and only desire to be *restored* to our *ancient rights*, as we quietly enjoyed them before the *fatal period* of Mr. Grenville's administration. What were those *former* or *ancient rights and privileges* of the Colonies shall then be the subject of our next enquiry. But by the way, I would ask these loyal subjects of the king, what king it is they profess themselves to be the loyal subjects of ? It cannot be his present most gracious majesty George the Third, King of Great Britain, for his title is founded on an act of parliament, and they will not surely acknowledge, that parliament can give them a king, which is of all others the highest act of sovereignty, when they deny it to have power to tax or bind them in any other case ; and I do not *recollect*, that there is any act of assembly in any of the Colonies for settling the crown upon King William, or the illustrious house of Hanover. But they say, they *recognized* his majesty's

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title

title before many of the people in England had done it. That is, they *obey'd* an act of parliament before it was *obey'd* by many people in England. I believe they did so, for I never suspected them of Jacobitism, altho' they must see, that if they reject parliamentary authority, they make themselves to be still the subjects of the abjured Stuart race. This however is too delicate a matter to say more upon; we shall then proceed to the investigation of their *ancient rights*, &c.

The first charter granted by the crown of England for the purpose of *Colonization*, is that granted by king James to the two Virginia Companies, dated the 10th of April, 1606; those which precede it having been granted for the purpose of *Discovery*. This charter, as it is explained and enlarged by another charter, dated only three years after, furnishes us with a pretty good account of the rights and privileges which the first Settlers in Virginia carried over with them, and to which they now seem so desirous of recurring. By one clause in this charter, the governor,
and

and other magistrates and officers to be appointed by a council residing in London, are vested " with full and *absolute* power " and authority to *correct, punish, and pardon, govern and rule* all such the subjects " of us, our heirs and successors, as shall " from time to time adventure themselves " in any voyage thither, or that shall at " any time inhabit in the precincts and " territories of the said Colony as aforesaid, " according to such *orders, ordinances, constitutions, directions and instructions, as by " our said council as aforesaid shall be established* ; and in *defect* thereof, in *case of " necessity, according to the good discretion " of the said governors and officers respectively, as well in cases capital as civil, " both marine and others, so always as the " said statutes, ordinances and proceedings, " as near as conveniently may be, be agree- " able to the laws, statutes, government " and policy of this our realm of England.*"

By other clauses, the treasurer and company are exempt from the payment of all duties and taxes for *seven years*. But a duty of two and an half *per cent.* is laid by the king upon all merchandize, bought and

fold within the precincts of the Colony, by English subjects not of the Colony. And an additional duty of Two and an half *per cent.* more is laid upon all merchandize bought or sold therein by aliens or foreigners, and the revenue to arise from those duties is thus *appropriated by the king* ; “ all
 “ which sums of money or benefit as afore-
 “ said, for and during the space of twenty-
 “ one years next ensuing the date hereof,
 “ shall be wholly employed to the use, be-
 “ nefit and behoof of the said several plan-
 “ tations where such traffic shall be made ;
 “ and after the said twenty-one years end-
 “ ed, the same shall *be taken to the use of us,*
 “ *our heirs and successors, by such officers and*
 “ *ministers as by us, our heirs and succes-*
 “ *sors, shall be thereunto appointed.*” In
 a clause of the second charter this duty is
 doubled, but it is explained to mean a du-
 ty of Five *per cent.* upon goods imported,
 and Five *per cent.* on goods exported by
 English subjects not of the Colony, or al-
 lowed by the company ; and Ten *per cent.*
 to be paid by aliens, “ *over and above such*
 “ *subsidy and custom as the said company is or*
 “ *hereafter shall be to pay.*” The glorious
 rights,

rights, privileges and immunities therefore, which the *first Settlers* in Virginia carried with them, appear to have been the *right* of being governed by laws, enacted by a council of the proprietors residing here in England, all of them nominated in the first instance by the crown, and afterwards to be elected by the proprietors residing in England. And in case of the *defect* of *such statutes*, the *discretion* of the governor, and other ministerial officers, was to be the *law*, as well in cases *capital* as *civil*. It was their *right* and *privilege* also, to be taxed by the King's *sole prerogative*, for the *use* and *benefit* of the crown only, and in no case to be taxed by themselves, or their representatives elected by themselves; for these charters convey no such powers to the companies, or to their council. So very far from the truth therefore are those assertions of the Virginia assembly contained in their resolutions, "that the inhabitants of that Colony have always been taxed by themselves, or by persons chosen by themselves; and of having been governed only by *such laws*, as they or their representatives gave consent to;" that by the

original constitution of the Colony, the inhabitants had no right to chuse representatives for any purpose, or of being consulted, or their consent asked in the framing of any laws, or imposing of any taxes, by which they were bound. Their laws were sent over to them from England ready drawn up, and enacted by a council appointed by the crown, and their taxes were imposed by the king's *sole prerogative*. Nor were these the *rights and privileges* of the inhabitants of that country, which is now called Virginia only, for the territory granted by these charters to the two Virginia companies extended from the latitude 34 to the latitude 45, which includes the whole country, from the south boundary of the Colony of Virginia, to the frontiers of Nova Scotia, and the first Settlers in that part of this territory, which is now called New England, settled under *those very charters*, having purchased the right so to do from one of those *companies*.

And altho' the New England company took upon them, in their general court, to assess the inhabitants, yet, as their charter gave

gave them no right so to do, we find their *having levied money of the inhabitants*, one of the chief acts of delinquency alledged in the writ of *scire facias*, issued against their charter in the 36th year of the reign of Charles the Second, and upon which judgment was given in the court of King's Bench, against the governor and company of that Colony, and their charter taken away. And when after the revolution they petitioned king William and queen Mary for a renewal of their former charter, the king's council of that great æra told them, their former charter was insufficient for their purpose; inasmuch as by it they could not *levy money for the purposes of their government*. And in the new charter, which was granted them in the third year of William and Mary, and which is the charter under which that Colony is *now governed*, the power to levy taxes is restrained to provincial and local purposes, and to be exercised over such only as are *inhabitants or proprietors* of the said Province; the terms of the charter are these; "and we do give
 "and grant that the said general court or
 "assembly shall have full power and au-
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"thority to name and settle annually all
 "civil officers, &c. and also to impose
 "fines, mulcts, imprisonments and other
 "punishments, and to impose and levy
 "proportionable and reasonable assess-
 "ments, rates and taxes upon the *estates*
 "*and persons, of all and every the proprietors or*
 "*inhabitants of our said Province or territory,*
 "to be issued and disposed of, by warrant
 "under the hand of the governor of our
 "said Province for the time being, with
 "the advice and consent of the council,
 "for our service, in the necessary defence and
 "*support of our government, of our said Pro-*
 "*vince or territory, and the protection and pre-*
 "*servation of the inhabitants there,* accord-
 "ing to such acts as are or shall be in force
 "within our said Province". Here we
 have the origin of the American distinc-
 tion between external and internal taxes,
 and the distinction is a real one in respect
 to the authority or right of the assembly of
 Massachusetts Bay, for that assembly has no
 right, by their charter, to lay any tax on
 English traders, or their goods, frequent-
 ing the ports of that Province, if they be
 not inhabit. s or proprietors of the Pro-
 vince;

vince; and if they have done any such thing, their present charter may be as much endangered by it, as their former one was in the reign of Charles the Second, from their taxing the inhabitants without authority. And the reason of this limitation in their right of levying taxes is plainly this. That it might not be in their power to injure the trade of England by taxing English goods, ships, or merchants, who might come to trade there, or to give any preference to the inhabitants of the Colony over the people of England. Thus this boasted distinction, by which it was pretended, that parliament was precluded from taxing the inhabitants of that Colony, comes out to be *a preclusion of the assembly of that Province, from taxing English traders or their merchandise in any of the ports of that Province.*

The pursuit of this business has carried me to a lower period of time, than other considerations will suffer me to proceed from, and I must now return to the proceedings of the Virginia company, and of parliament relative to them. And indeed, from what we have seen
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of the conditions, under which the first Emigrants settled in that country, we are not to be surprised at finding petitions to parliament, from these first Settlers in the Colonies so early as the year 1621; and if, as the *administration of the colonies* tells us, parliament then *desisted* from its claim of right over them, we can scarcely suppose the petitioners considered *that neglect* of them as a *privilege*. Is it not more probable, that they considered it as an addition to all their other grievances? And how would they be amazed at the madness of their descendants, whom parliament hath taken under its benign protection, and rescued from the cruel fangs of prerogative and arbitrary power, Did they see them labouring with all their might to throw off the jurisdiction of parliament, and return under the unlimited authority of the crown?

Parliament, however, *did not neglect* their applications, nor did parliament, either then, or at any time since, *ever doubt of its right of jurisdiction over the lands and inhabitants in America*, as will appear most evidently

dently from the commons journals, faithful extracts from which I have given in the appendix beginning at the year 1614, which was only eight years after the grant of the first charter, and only five years after the grant of the second, for planting Colonies in America.

My countrymen will there see, that the doubts of *the right of parliament to make laws to bind the Colonies*, was raised by the *king's secretary*, and that the *only members* of the house of commons, who seemed to doubt along with him, were *two of the patentees*, Mr. Smith and Mr. Guy. The majority of the commons, were so far from doubting of their jurisdiction, that they passed the bill, which occasioned the doubt, which was not only *asserting* their right, but actually *exercising* it, as far as any house of parliament can exercise any legislative jurisdiction. And what is still more, the secretary and the patentees seem to have not only *acquiesced* in the right claimed by parliament, but to have been drawn over to the opinion, that parliament had such a right, for in the progress of the bill, we find them silent upon the matter of right,
and

and complaining of the hardships imposed by it on the Settlers, by authorising and giving a right to the English fishermen to *cut down timber off their lands*, and without paying them for it, even within a quarter of a mile of their houses : And proposing some amendments in favour of the colonists : *Without which*, Mr. Secretary says, he *doubts* whether the bill will receive the royal assent. But these commons of England were not to be led by the king's secretary from their duty to the state ; they rejected the provisos ; upon this truly parliamentary reason, " that the fishing was more " beneficial to the *commonwealth* than " the plantation ". Upon the same principle they controuled a patent, which excluded English fishermen from fishing on certain coasts of America, and declared in right of their supreme authority, that the penalties and forfeitures inflicted by that patent were *void*. They will also find in the same journal, that the commons of England were not inattentive to the prosperity and security of the Colonies from their first settlement, nor to preserve to them
their

their rights as *subjects of England*, whilst they took care to prevent them from interfering with, or injuring their fellow subjects in their mother country. For they not only allowed the use of Virginia tobacco, when they excluded that of all other places, but the forfeiture which the king had by his patent inflicted on the tobacco *shipped in Virginia*, they declared to be *illegal*, and the patent *void because it was not done by authority of parliament*. This was at once rescuing the Colonies from the oppressive jurisdiction of the crown, and declaring their own authority over them. It was saying, that the crown alone had no right to grant away the property of the people in Virginia, for that right was in king and parliament. It was declaring, that the Colonies lay within the realm, and were not the private possessions of the king, but part and parcel of the dominions of the crown, that the inhabitants were subjects of the state, and intitled to the protection afforded by the laws of England, against the arbitrary acts of the king, and bound to pay obedience to them.

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It is well worthy of remark, that the excluding parliament, from jurisdiction over the Colonies, was at *this time* a matter of pecuniary, as well as honorary consideration with the crown; for as there was then no settled revenue for the support of the king's civil government, the grant of charters and monopolies were the most important of the king's methods of raising money independant of parliament; and from the especial provisions in these charters to the Virginia companies, it is evident, that the king then looked to the new plantations in America, as a source for a considerable revenue to himself and his successors, which might, perhaps, enable them to subsist their households in future, without the disagreeable aid of parliament. In these circumstances it is more easy to suppose, that the king or his ministers, would have restrained parliament in its rightful jurisdiction, than have suffered it to *assume* jurisdiction over America, if parliament had not a right to it; and the frequent rejection of the fishing bill is a proof, that such was really the intention of the crown, whereas its frequent renewal is a like proof of

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an early jealousy in the commons, and of their strict attention to the rights of parliaments, and the true interests of their country.

In the year 1632, Lord Baltimore obtained a grant of lands in America, to which the charter gives the name of Maryland; these lands were included in the former charters to the Virginia companies, but those companies not having cultivated or planted them, the crown thought it had a right to regrant them without any legal process; and as the Virginia companies had held those lands as of the manor of East Greenwich, so the king now grants them to Lord Baltimore, to be holden as of the "castle of Windsor in the county of Berks," declaring, "that the said Province, tenants and inhabitants of the said Colony or country, shall not from henceforth be held or reputed a member, or as part of the land of Virginia, or of any other Colony whatsoever, nor shall be depending on, or subject to their government in any thing. And our pleasure is, that they be separated, and that they *shall be*
" *subject*

“ *subject immediately to our crown of Eng-*
 “ *land as depending thereof for ever.*” In
 this charter, however manifest, it appears,
 that the king was desirous to gratify Lord
 Baltimore to the utmost of his power, yet
 we find the right of all the subjects of Eng-
 land, to fish and cut wood on the coasts of
 America, for which parliament had so stren-
 uously contended, is expressly *reserved*.
 “ Saving always unto us, our heirs and suc-
 “ cessors, and to all the subjects (of our
 “ kingdoms of England and Ireland) of
 “ us, our heirs and successors, free liberty
 “ of fishing for sea fish, as well in the sea,
 “ bays, inlets, and navigable rivers, as in
 “ the harbours, bays, and creeks of the
 “ Province aforesaid, and the privileges of
 “ salting and drying their fish *on the shore of*
 “ *the said Province*; and for the same cause
 “ to *cut and take* underwood or twigs there
 “ growing, and to *build cottages and sheds*
 “ necessary in this behalf:” so that altho’
 the king refused his assent to the fishing
 bill, yet we see in this patent, he made
 reservation of *those rights of the people of*
England, which parliament had asserted
 and meant to have established by that bill ;
 and

and if he had not done so, we may well suppose, that the house of commons would have done it for him, as we have seen they did in the case of the Virginia company, and the Newfoundland company; for notwithstanding the bill had not the royal assent, yet the resolutions of *those commons of England*, had sufficient efficacy to prevent the settlers in Virginia and Newfoundland from *ever afterwards* refusing liberty to the English fishermen to fish, *cut down wood*, &c. upon their coasts, and within their respective charter jurisdictions.

The intermission of parliaments from this date, to the breaking out of the troubles which occasioned the death of Charles, leaves us without any further record of the opinion of parliament in his reign, with respect to its right of jurisdiction over the Colonies; but we find in Scobel's acts of the commonwealth parliament, the strongest and fullest declarations of the right of parliament, to bind the Colonies in all cases whatsoever that can be contained in words. Virginia, Barbadoes, and some other of the Colonies, (not New England, for that

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Colony

Colony took part with the commonwealth's men) had declared for King Charles the Second, and Prince Rupert had carried his fleet to support them. To *punish* these Colonies, the parliament made an act in the year 1650, the preamble to which, is as follows : * “ Whereas in Virginia, and in
 “ the islands of Barbadoes, Antigo, St.
 “ Christophers, Mevias, Montserrat, Bermudas, and divers other islands and
 “ places in America, there have been and
 “ are Colonies and Plantations which were
 “ planted at the cost, and settled by the
 “ people, and by *authority of this nation,*
 “ *which are and ought to be subordinate to*
 “ *and dependent upon England, and bath ever*
 “ *since the planting thereof, been and ought to*
 “ *be subject to such laws, orders and regulations,*
 “ *as are or shall be made by the parliament of*
 “ *England.*” I do not quote this act as of force or binding upon the Colonies, I only give it as an historical fact, containing the opinion of *that parliament* ; and if we believe the assertions in the preamble :
 “ That the Colonies were *always held and*
 “ *deemed to be subject to all acts of parlia-*

* Appendix, No. 2.

“ *ment,*”

"*ment*," which is a matter that must have been well known to those who made that assertion, as the first settlements were made within the memory of many of them, it will be full evidence, of the *opinion* which former parliaments had of their right to jurisdiction over the Colonies, though it is not a proof of the right of those who passed the act.

The great event which quickly followed, and by which the constitution was restored to its ancient form, restored parliament to its legal authority over all the subjects of the realm, and the re-establishment of peace afforded an opportunity for exercising it; and from this happy period, down to the present times, there are but few sessions which are not marked by some act of sovereignty over the Colonies, some *regulation* or *tax*. The Colonies were then indeed become of considerable importance. The number of inhabitants upon the continent of America, was not now only 4000, which was the number of all the settlers there in the reign of James the First, when the Irish bill was first brought in; and it therefore behoved

parliament more attentively to look after them at this time, than it was necessary for them to do in their infancy ; and from this reign it is, we are to begin our enquiries after parliamentary regulation for the trade and inhabitants of the Colonies, although the claim and exercise of the *right* of parliament over them, may be taken much higher, and is indeed, as we have seen, coeval with their first settlement. The crown too desisted from its claim to the sole property in the Colonies and right of jurisdiction over them. We hear no more of that prerogative language from the crown to parliament ; the Colonies are not annexed to the realm, they are the king's separate dominions ; but, on the contrary, we find the crown, in its future charters and patents for granting territories in America, carefully explaining itself to have no pretensions to such separate jurisdiction, but setting forth to the Colonies, that parliament was in all cases to be the supreme and sovereign legislature over them.

The charters dated in the 14th year of Charles the Second, which were granted to
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the inhabitants of Connecticut and Rhode Island, are simply charters of incorporation, erecting the respective inhabitants in those places into a corporate body, and empowering them to do corporate acts, in like manner, as other corporations in England are empowered to do, or as those charters express it: “ That they the said John Winthrop, &c. and all others as now or hereafter shall be admitted and *made free of the company* and society of our Colony of Connecticut in America, (and the same words are used in the Rhode Island charter) shall from this time, and for ever hereafter, be one *body corporate and politic* in act and name, by the name of Governor and Company of the English Colony of Connecticut in New England in America, and that by the same name, they and their successors shall and may have perpetual succession, and shall and may be *persons able and capable in the law* to plead and be impleaded, to answer and to be answered unto, to defend and to be defended in all and singular suits, causes, quarrels, matters, actions and things of what kind or nature soever, and also to

" have, take, possess, acquire and purchase,
 " lands, tenements, or hereditaments, or
 " any goods or chattels, and the same to
 " lease, grant, demise, alien, bargain,
 " sell and dispose of, as *other* our liege peo-
 " ple of this our realm of England, or any
 " *other corporation*, or body politic, *within*
 " *the same*." The man who thinks the
Terms of this clause of the Connecticut and
 Rhode Island charters, descriptive of or
 applicable to a *sovereign State* or *supreme le-*
gislation, deserves not that any sober argu-
 ment should be held with him. I shall
 therefore pass over the further considera-
 tion of these charters, with only remark-
 ing, that the King here *expressly admits*,
 that the Colonies were then within the
 realm of England, or annexed to it, by
 using these words, " as *other our liege peo-*
 " *ple of this our realm of England, or any*
 " *other corporation within the same*."

The patent for Pennsylvania, which was
 granted the same year with the Rhode Island
 and Connecticut charters, as it was of a
 more extensive nature, and convey'd higher
 powers, seems to have been drawn up with
 pro-

proportionably greater caution, and is indeed so full upon the matter of the present dispute, between the Colonies and Parliament, that one cannot help supposing, those who were intrusted to prepare it had a foresight of what has since happened. The preamble of the patent declares it to be a chief purpose of the patentee, *to enlarge "our English dominions;"* and that the territory granted, and its future inhabitants, should for ever continue as part of that dominion, is expressly provided for by the following clause. "And to the end the
 " said William Penn, or his heirs or other
 " planters, owners or inhabitants of the said
 " Province, may not at any time hereafter,
 " by *misconstruction of the powers aforesaid,*
 " through *inadvertency or design,* depart
 " from that faith and due allegiance, WHICH
 " BY THE LAWS OF THIS OUR KING-
 " DOM OF ENGLAND, they and all our
 " subjects in our dominions and territories
 " always owe unto us, our heirs and succe-
 " sors, by *colour of any extent or largeness*
 " of powers hereby given, or pretended to
 " be given, or by *force or colour of any laws*
 " hereafter to be made in the said Province,

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" by

“ by virtue of any such powers. Our fur-
 “ ther will and pleasure is, that a transcript
 “ of all laws, which shall be made within
 “ the said Province, shall be transmittted to
 “ the privy council ; and if any of the said
 “ laws shall be declared by us, &c. in our
 “ privy council, inconsistent with the sove-
 “ reignty or *lawful* prerogative of us, &c.
 “ or contrary to the faith or allegiance *due*
 “ *by the legal government of this realm*, from
 “ the said William Penn, or his heirs, or
 “ of the planters or inhabitants of the said
 “ Province, from thenceforth such laws
 “ shall become *void*”. By another clause,
 the king covenants not to lay any tax up-
 on the inhabitants of Pennsylvania of his
 own sole prerogative, but in giving up that
right of his ancestors, he takes care to de-
 clare, that he does not mean to give up the
 right of parliament to tax them, or pre-
 tend that he could do so ; these are his
 words : “ And further our pleasure is, and
 “ for these presents for us, &c. we do co-
 “ venant and grant to and with the said
 “ William Penn, &c. that we, &c. shall
 “ at no time hereafter set or make, or cause
 “ to set any imposition, custom, or other
 “ taxation, or rate or contribution whatso-
 “ ever,

“ ever, in and upon the dwellers and inha-
 “ bitants of the aforesaid Province, for their
 “ Lands, Tenements, Goods or Chattels
 “ within the said Province, or in and up-
 “ on any goods or merchandise within the
 “ said Province, or to be laden or unladen
 “ within the ports or harbours of the said
 “ Province, unless the same be with *the con-*
 “ *sent* of the *proprietors* or chief governor *or*
 “ *assembly*, or by ACT OF PARLIAMENT
 “ IN ENGLAND”. I am no advocate for
 prerogative taxes, either in England or in
 the Colonies; but yet, if the crown *ever*
had a right to tax the inhabitants of Pensyl-
 vania, I see nothing in *this charter*, which
 is the ancient constitution of the Colony,
 which could serve to justify them in refu-
 sing to pay any tax, which the crown and
 the *proprietor* might agree to impose upon
 them; for the crown only grants, that
 without the consent of the proprietor, *or*
 of the assembly, *or* by act of parliament, it
will not impose taxes, which is reserving to
 itself the right of doing it *with the consent*
of either.

In the following year, viz. the 15th of
 Charles the Second, that part of the North
 Ame-

American continent, which lies to the south of Virginia, was granted to eight proprietors, under the name of Carolina; the clause of this patent, which separates the newly erected Province, and its inhabitants, from all other Colonies, very fully declares their dependancy on the crown of England. "Our will and pleasure is," says the patent, that they be *subject* immediately to our crown of England, *as depending thereof for ever*; and that the inhabitants shall not, at any time, be liable to answer to any matter out of our said Province, *other than in our realm of England, and dominion of Wales.*"

The last Colony charter, granted by the crown, is that granted in the year 1732, by his late majesty, to lord Percival, and certain other gentlemen, who were called Trustees for establishing the Colony of Georgia. The powers of legislation, for this Colony, were vested in a council, to be chosen by the trustees, or members of the corporation; and it is whimsical enough to observe, that none were capable of being of that council, which was thus appointed the

the legislature for the Colony, who *were possessed of any lands*, or offices of profit, *within* the Colony, as if it had been intended to debar and cut off, from the *inhabitants*, all possibility of pretending to a right of being represented in this their legislative assembly, or of electing the members of whom it should be composed. Or perhaps it was intended, by this singular restraint, to prevent the corporate powers from being carried over to the Colony, as had been the case with the Virginia charters. Whatever the reason was, we find such was the legislature the inhabitants of Georgia were to be governed by—and by it they were governed for twenty years, after which, viz. in 1752, the trustees resigned their charter, and re-invested the Colony in the crown. The trustees council were indeed sparing in the exercise of their legislative powers, for they enacted only *three* laws in all that time, but *they* may truly be said, to have been sufficient, and most effectually precluded the necessity for more. The one prevented the inhabitants from trading to the West India Islands. The other prevented them from trading with the Indians; and

and the third prevented them from cultivating their lands. The acts did not indeed bear such titles, but the restraints imposed by them had exactly those effects. The council however repealed two of those acts before they resigned their charter, but the one for regulating the trade with the Indians, and by which a *Tax* is laid upon the traders, for defraying the charge of salaries to the officers, is, with some amendments, still of force in that Colony; and those inhabitants who pretend, that parliament, the supreme legislative authority over all the realm, has no right to make laws to bind them, are, and always have been, actually bound and taxed by a law, enacted by half a dozen English gentlemen at a tavern meeting——But to return to the proceedings of parliament.

In the 12th year of Charles the Second, which was the first session after the restoration parliament, gives a strong instance of its attention to the general interest of this country, and of the Colonies, and of its authority over them.

It

It prohibits, " the importation into, or
 " the exportation out of any lands, islands,
 " plantations, or territories, to his Majesty
 " ty belonging, or in his possession, or
 " which may hereafter belong unto, or be
 " in possession of his Majesty, his heirs and
 " successors, in Asia, Africa and America,"
 of all goods and commodities whatsoever,
 " except in ships belonging to the people
 " of England or Ireland, or the said lands,
 " islands, plantations or territories;" and
 " navigated by *Englishmen*," and the *Terms*
Englishmen and *English* shipping; the same
 act explains to include, " the men and
 " shipping belonging to England, Ireland,
 " Wales, Guernsey, Jersey, or any other;
 " the lands, islands, dominions and terri-
 " tories, to his Majesty, in Africa, Asia
 " or America, belonging, or in his posses-
 " sion;" and under this explanation of the
 terms English ships and English men, have
 the ships, and inhabitants of the Colonies,
ever since enjoyed the *same* privileges and
 advantages, as the ships and inhabitants of
 the kingdom of England are intitled to;
 and in all future acts, the respective inha-
 bitants are deemed *one and the same people*,
 and

and their ships to belong to one and the same people. But this act goes still further, in its exercise of parliamentary jurisdiction in and over the Colonies, for it prohibits any person, who is an *Alien*; that is, as the act explains it, one, *not born within the allegiance of the King*, or made a free denizen, from exercising the trade or occupation of a merchant or factor, *in any the said places*, upon pain of the forfeiture and loss of all such person's goods or chattels."

The preamble to that part of the act, of the 15th of Charles the Second, which relates to the plantations, has already been taken notice of, but the reason which parliament gives for enforcing the prohibition of planting tobacco in England, is worthy of remark, inasmuch, as it serves to prove the *practicability of cultivating that plant in England*, and the generous and equal regard which parliament entertained for the inhabitants in the Colonies, and people of England, as subjects in common, of the State. "And forasmuch, says the statute, as planting and making
" to-

“ tobacco within the kingdom of Eng-
 “ land, doth continue and *increase*, to the
 “ apparent loss of his said Majesty in his
 “ customs, *the discouragement of the English*
 “ *plantations in the parts beyond the seas*, and
 “ prejudice of this kingdom in general.”

The act of the 25th of this reign (Chap.
 the 7th) is the first which *lays taxes in the*
Colonies, for the sole purpose of revenue. Not
 indeed upon commodities carried thither
 from England, or upon such part of the
 Colony products, as were *consumed* in the
 Colonies, in which they were raised, for
 parliament seems, by its reasoning in that
 act, to have exempted them from taxes in
 these cases, by way of encouragement, and
 in consideration of their not being *then* as
 well able to pay taxes, as the people of
 England were, upon what they consumed,
 but upon such of their products, as they
exported to foreign countries, or carried
 from *one Colony to another*, the following du-
 ties are directed to be paid at exportation ;
 “ *for so much of the said commodities as shall*
 “ *be laded, and put on board such ship or ves-*
 “ *sel; that is to say, for sugar white, the*
 “ hun-

“ hundred weight, *five shillings* ; and brown
 “ and muscovados, the hundred weight,
 “ *one shilling and six-pence* ; tobacco, the
 “ pound, *one penny* ; cotton wool, the
 “ pound, *one half penny* ; for indico, *two-*
 “ *pence* ; ginger, the hundred weight, *one*
 “ *shilling* ; logwood, the hundred weight,
 “ *five pounds* ; fustick, and all other dying
 “ wood, the hundred weight, *six-pence* ;
 “ cocoa, the pound, *one penny* ; to be le-
 “ vied, collected and paid, at such places,
 “ and to such collectors, and other officers,
 “ as shall be appointed in the respective
 “ plantations, to *collect, levy and receive*
 “ the same, *before the lading thereof*, and
 “ under such *penalties*, both to the of-
 “ ficers, and *upon the goods*, as for non-
 “ payment of, or defrauding his Majesty
 “ of his customs in England ;” And for
 the better “ *collection of the several rates and*
 “ *duties imposed by this act*, be it enacted,
 “ that this whole business shall be ordered
 “ and managed, and the several *duties here-*
 “ *by imposed*, shall be caused to be levied by
 “ the commissioners of the customs in Eng-
 “ land, by and under the *authority and di-*
 “ *rections* of the lord treasurer of England,
 or

“ or commissioners of the treasury ;” the only duty imposed by this act upon any of these commodities, which can be called a *prohibitory* duty, is that upon logwood ; for the rates and taxes, charged upon all the others, were not only such as the commodities could bear, but *which it was intended they should bear*, and which *were actually paid* by the inhabitants in the Colonies, who continued to export them after those duties were laid upon them, until the law was altered by subsequent acts, in the following reigns. There is indeed no appropriation of the revenue to arise from these taxes, declared in the act, but it was not *then* the practice of parliament, to appropriate all revenues that were to arise, from the taxes it imposed, either in England or in the Colonies ; they were given to the King generally, and without account for the public service of the state. But if parliament had only intended these taxes as *regulations of trade*, that is to say, as prohibitory of the exportation to *foreign parts*, or *from one Colony to another*, of any of the products or commodities, upon which the taxes were laid ; why did it impose a tax,

N

of

of only one shilling and six pence the hundred weight, upon muscovado sugar, which was then worth more than *twenty shillings* in the Colonies, and at the same time tax a hundred weight of logwood, which was not worth near so much, at five pounds? The same question may be asked, in respect to all the other commodities, and the answer can only be, that the high tax, in the one case, was intended for a prohibition, and in all the others, the taxes were *expected to be paid*, and to raise a revenue, in the Colonies, from their trade, for the general service of the state. “ Their trade “ and navigation, says the statute, in those “ commodities, from one plantation to “ another, was then *greatly increased*,” and was become an object for taxation, and was therefore taxed accordingly. And what puts it beyond all possibility of doubt, that these taxes were imposed for *the purpose of revenue*, is, that the taxes, directed to be paid on the exportation to foreign parts, or from one Colony to another, of *some* of these products of the Colonies, and I believe *on all*, are the *same* as were then paid in England, upon the importation of those products

products into that kingdom; and I believe it never was imagined, that *those taxes* were not imposed for the purpose of revenue. The plain and obvious intention of parliament, therefore, appears to have been, that the people, in the Colonies where the respective commodities were not produced, should pay the same taxes for using them, as were paid by the people of England for using them; and that such of those products, as were carried to foreign countries, should also pay the same taxes; as well to prevent foreigners from having them cheaper than the people in England, or in the Colonies could have them, and thereby cutting them off from any preference in the market, as also to raise a revenue to the state, out of what was consumed by foreigners. Some of these taxes *still remain*, and are now paid in the Colonies, particularly the two-pence *per lb.* on indigo; and it was not till his late Majesty's reign, that some of the other taxes were *altered*.

By the 7th and 8th of William and Mary, it is enacted, " that every seaman

“ whatsoever, that shall serve his Majesty,
 “ or *any other person whatsoever*, in any of
 “ his Majesty’s ships, or in *any ship or ves-*
 “ *sel whatsoever*, belonging or to belong to
 “ any subjects of England, or any other
 “ his Majesty’s dominions, shall allow, and
 “ there shall be paid out of the wages of
 “ every such seaman, to grow due for such
 “ his service, *6 d. per annum*, for the
 “ better support of the said hospital, and
 “ to *augment the revenue thereof*.” This tax
 has always been, and still is *levied in the*
Colonies.

But an act, which was passed the same
 year, intituled, “ An act for preventing
 “ frauds, and regulating abuses in the plan-
 “ tations,” is still more remarkable for the
 exercise of parliamentary jurisdiction in the
 Colonies, not only over the individuals and
 their effects, but over their courts of justice,
 and even over *their assemblies* also. This act
 renews and enforces all former acts respec-
 ting the plantations, and makes all ships
 and vessels coming into any port there liable
 to the same regulations and restrictions, as
 ships in the ports in England are liable
 to;

to; and then goes on to enact, " That
 " the officers for *collecting and managing*
 " *his Majesty's revenue*, and inspecting the
 " plantation trade in any of the said plan-
 " tations, shall have the same powers and
 " authorities for *visiting and searching* of
 " ships, and taking their entries, and for
 " seizing and securing, or bringing on
 " shore any of the goods *prohibited* to be
 " imported or exported into or out of
 " any of the said Colonies and planta-
 " tions, or *for which any duties are pay-*
 " *able, or ought to have been paid* by any
 " of the before-mentioned acts, as are
 " provided for the officers of the customs
 " in England : and also to *enter houses or*
 " *warehouses to search for*, and seize any
 " such goods. And that all the *war-*
 " *ingers and owners* of keys and wharfs,
 " or any lighterman, bargeman, waterman,
 " porter, or *other persons*, assisting in the
 " conveyance, concealment or rescue, &c.
 " shall be brought to the like pains and
 " penalties, as are provided in relation to
 " prohibited or uncustomed goods here
 " in England. And the like assistance
 " shall be given to the said officers as is

“ provided for the officers in England :
 “ and also, that in case any officer or of-
 “ ficer in the plantations, shall be sued
 “ or molested for any thing done in the
 “ execution of their office, the said of-
 “ ficer may plead the general issue, and
 “ *shall give this, or other custom acts in*
 “ *evidence, and the judge to allow thereof.*”
 Another clause of this act, prohibits *the*
owners of lands, in the Colonies on the
 Continent from *selling them*, to any person
 who is not a *natural born* subject of Eng-
 land or Ireland, unless by licence from
 his Majesty. But the highest exercise of
 authority, is contained in the 9th section
 of this act, which declares and enacts,
 “ That all laws, bye-laws, usages or cus-
 “ toms, at this time, or which hereafter
 “ shall be in practice, or endeavoured or
 “ pretended to be in force, or practice in
 “ any of the said plantations, which are
 “ in any wise repugnant to the before-
 “ mentioned laws, or any of them, so far
 “ as they do relate to the said planta-
 “ tions, or any of them, or which are
 “ any ways repugnant to this present act,
 “ or to any other law hereafter to be made
 “ *in*

“ *in this kingdom, so far as such law shall*
 “ *relate to and mention the said plan-*
 “ *tations, are illegal, null and void, to all*
 “ *intents and purposes whatsoever.*”

The number of acts of parliament respecting the Colonies, is so great in this and the subsequent reigns, that quotations from them all would be endless, I shall therefore pass on to that of the 11th of King William, for the trial of pyrates in America, in which we find the following clause than, which nothing can be more expressive of the *full authority*, which parliament then exercised over the Colonies. “ And be it hereby further declared and enacted, that if any of the
 “ *governors in the said plantations, or*
 “ *any person or persons in authority there,*
 “ *shall refuse to yield obedience to this act,*
 “ *such refusal is hereby declared to be*
 “ *a forfeiture of all and every the char-*
 “ *ters granted for the government or pro-*
 “ *priety of such plantation.*”

The third and fourth of Queen Ann, prohibits the cutting down any pitch or

tar trees in the Colonies of New England, New York, or the Jerseys, that shall not be within a fence or enclosure, *notwithstanding the lands on which they grow, and consequently the trees, may be the private property of the inhabitants in these Colonies.*

The act of the ninth of that reign for establishing the post office, gives this reason for its establishment, and for laying the taxes thereby imposed on the carriage of letters in Great Britain and Ireland, *the Colonies and Plantations in North America, and the West Indies, and all other her Majesty's dominions and territories,* " That the business may be done " in such manner, as may be most beneficial to the people of these kingdoms, " and her Majesty *may be supplied, and the* " *revenue arising by the said office better improved, settled and secured to her Majesty,* " *her heirs and successors.*" And besides taxing the letters in the Colonies for these purposes, the ferrymen, and owners of ferries in North America, are required to give up their dues for ferriage, and to carry over the post without payment, under a heavy penalty.

The

The act of the fifth of George the Second, which prohibits the exportation of hats made in the Colonies, even from one Colony to another : also prohibits any persons, who have not served an apprenticeship to that business, from making hats there even for *their own wearing* : and also, restrains all makers of hats, from taking more than two apprentices at a time, or any for less than seven years, and intirely prohibits the employing negroes in that business. And the act of the 13th of George the Second, which the Colonies quote, as having conveyed to them the rights and privileges of Englishmen, naturalizes foreigners, who shall reside seven years in the Colonies, not only in respect to Great Britain, but in respect to the Colonies also ; and the naturalization of such foreigners by authority of the said act, has never been disputed in the Colonies, and they have not only voted in the election of members of the several Colony assemblies, but have been elected into those assemblies and sat therein, in consequence of and by authority of this act.

I shall

I shall mention but one act of parliament more, as that act will compleat whatever may be wanting (if any thing can indeed be supposed wanting after the variety I have quoted) to compleat the evidence of the *unlimited jurisdiction* which parliament has *always* exercised over the Colonies in all cases whatsoever; and that is the act of the 5th of the late king, “ which
 “ abrogates so much of the common law
 “ as relates to descents of freeholds in
 “ America, takes from the son the right
 “ of inheritance in the lands the crown
 “ had granted to his father in absolute fee,
 “ makes them assêts, and applies them to
 “ the payment of debts and accounts contracted by the father, without the participation of the son*.” And what gives this act a higher air of importance, than any other is, that it was passed upon the petition of the English merchants trading to the Colonies, who complained, “ that in
 “ Virginia and Jamaica, a privilege was
 “ claimed to exempt their houses, lands,
 “ and tenements, and their negroes also from

* See the claim of the Colonies examined.

“ being

“ being extended for debt ; and the Lords
 “ of Trade represented, that the *assemblies*
 “ of those Colonies could never be induced
 “ to divest themselves of these privileges by
 “ *any act of their own.*” What the Colony
 assemblies therefore had refused to do, parliament of its own authority did.

Whilst parliament was thus in every reign, and almost in every session, exercising its supreme legislative authority over the Colonies, the ministers and servants of the crown were not wanting on their part, in carrying the laws into due execution, or in exerting the Prince's just authority, for preserving the Colonies in their dependance on the king and parliament of Great Britain.

It was not indeed usual in *those times*, to call men to the highest offices of the state, who were utterly unacquainted with the constitution ; or to place at the head of the law such as were altogether ignorant of the statutes and customs of the realm. The maxim that the king can do no wrong, was not then extended to the conduct of
 every

every minister who could seize upon the reins of government, or possess himself of the powers of the crown. The great offices of the state, *were then* deemed offices of *responsibility*, and the sanctions of parliamentary enquiries and impeachments guarded them from prophanation by arrogant intruders. An house of commons would then have been so far from excusing the blunders of a minister, upon his plea of ignorance, that they would have considered his having dared to execute an office, with the duties of which he knew himself to be unacquainted, as an high aggravation of his guilt. No minister in *those times*, would have been desperate enough to have *insulted* or *trifled* with an house of parliament, by neglecting or refusing to carry its resolutions into full execution ; much less to have held a shield before those who had defied its authority, to skreen them from its resentment. The terrors of parliamentary censures or punishments then made ministers diligent and resolute, in the discharge of their duty, and withheld presumptuous and incapable men from venturing to conduct the state.

The

The Prince was therefore well served, his councils were wise, and his crown surrounded with dignity. The nation was respected abroad, the Prince beloved at home, and parliament revered by all the subjects of the realm. The sentiments which the Colonies then entertained for their mother country, and for its laws, were those of duty and affection ; they claimed their protection, and they professed a willing obedience to their authority. Nay, they not only obeyed acts of parliament, but loved them, and held their right to be governed by them as their chiefest privilege, and the grand source of their happiness. We have an uncontrovertible proof, that such were the sentiments of the inhabitants of Virginia, in the first act passed by the assembly of that Colony after the restoration.

This act, after reciting the changes of government and unhappy disturbances during the late usurpation, declares what former acts of assembly shall be and continue in force in that Province in future. “ Professed, that in the collection they have
 “ made, they have endeavoured in all things
 “ as near as the capacity and constitution
 of



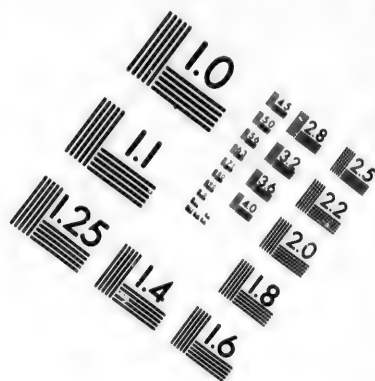
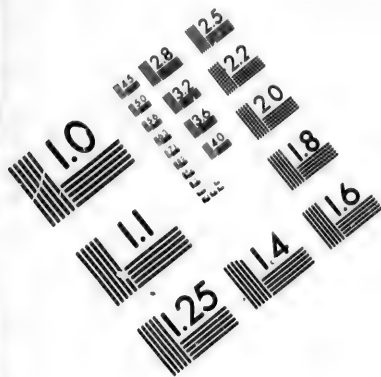
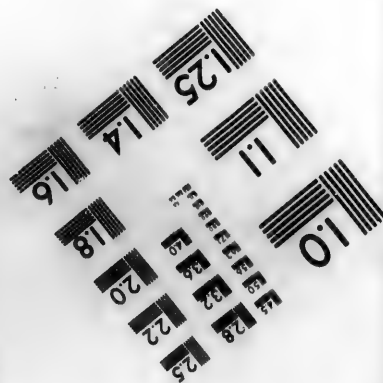
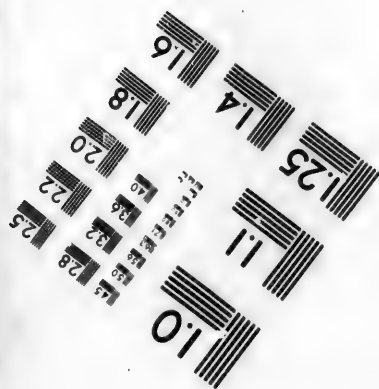
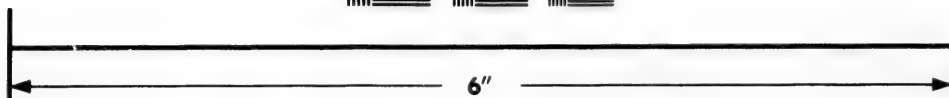
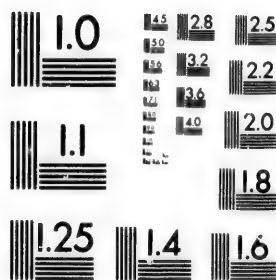
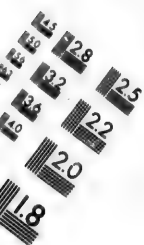


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“ of this country would admit, to adhere
 “ to *those excellent and often refined LAWS*
 “ OF ENGLAND, to which WE PROFESS
 “ AND ACKNOWLEDGE ALL REVERENCE
 “ AND OBEDIENCE ; and that the laws
 “ made by us, are intended by us, but as
 “ brief memorials of that which the *capa-*
 “ *city of our courts*, is utterly incapable to
 “ collect out of its vast volumes, though
 “ sometimes perhaps for the difference of
 “ our and their condition, *varying in small*
 “ *things, but far from the PRESUMPTION*
 “ *of contradicting any thing therein contained.*”

And in another act, in the year 1666,
 they thus express themselves, “ Whereas,
 “ for the better conformity of the proceed-
 “ ings of the courts in this country, to the
 “ *Laws of England*, it appears necessary,
 “ that for the better direction therein, all
 “ *the former statutes at large, and those made*
 “ *since the beginning of the reign of his most*
 “ *sacred Majesty, that now is, and some other*
 “ esteemed books of law, should be pur-
 “ chased.”

New

New England indeed was not equally well disposed towards the restored King of England, as Virginia; and although I have not been able to find any acts of assembly, or corporate records, made in these early times, in that country, yet I do not suppose, that those which were made, were expressive of duty to the King, or to the then parliament; for the inhabitants there had acknowledged obedience to the Commonwealth parliament, and their religious, as well as political tenets, led them to dislike the newly restored constitution. Their conduct, however, was not unobserved by the King and his Ministers; and that it might be the more strictly enquired into, a commission was dispatched under the Great Seal of England, empowering certain commissioners, to survey and examine the state of the Colonies. And it was upon the report of these commissioners, that the *scire facias*, of which I have already taken notice, issued out of the court of King's Bench, against the New England charters, alledging, among other things, that the corporate assemblies *had taxed the inhabitants*

tants without authority from their charter so to do.

A transaction between the ministers of Great Britain, and the assembly of New York, which took its rise in the year 1710, likewise furnishes a strong proof of the attention which the great ministers, of that time, gave to the Colony proceedings; and of *their opinion* of the right of parliament to tax them; and the subsequent conduct of the assembly of New York, is also an evidence of the just conceptions they then had of the authority of parliament, and of their wisdom in obviating the necessity for its interposition, *by imposing the tax themselves.*

The grants which had been made by that assembly for several years before, for the support of government, were discontinued in the year 1710; and upon the representation of the then governor of that Province, of the assembly's refusal to renew the grant, the Whig Ministers immediately resolved to bring in a bill into parliament, for imposing all the taxes which had been
discon-

discontinued by the assembly, and applying the revenue to arise from them in the same manner, and for the same purposes, as the revenue produced by them, when they were imposed by act of assembly, had been applied. A bill was prepared accordingly, and laid before Sir Edward Northey, and Sir Robert Raymond, afterwards Lord Raymond, for their opinion, and *the bill received their approbation*, as will appear from the following copy of it, underwritten by those two great lawyers.

COPY of a Bill, intituled, An Act for granting a Revenue to Her Majesty, to arise within the Province of New York, in America, for the support of that Government.

Most gracious Sovereign,

WHEREAS, by an act made and passed in the session of general assembly of your Majesty's Province of New York, in America, begun the four and twentieth day of October, one thousand six hundred, ninety and two, intituled,
 " An Act for establishing a Revenue upon
 " their Majesties, and for defraying the
 O " pub-

“ publick and necessary charges of the
 “ Government,” the several Rates, Duties,
 Excises and Impositions, upon Merchandizes, Goods, Furs and Liquors, therein mentioned, and herein after particularly expressed, were granted to their said Majesties, from and after the eighteenth day of May, One thousand, six hundred, ninety and three, for and during the term of two years, from thence next, and immediately ensuing, for the support of that Government, as therein-mentioned. Which said several Rates, Duties, Excises and Impositions, were, by several other subsequent acts of General Assembly, continued, until the eighteenth day of May, One thousand, seven hundred and nine, in the manner therein-mentioned : And whereas the General Assembly of the said Province, upon frequent applications to them for that purpose made, *have lately refused to continue the said Rates, Duties, Excises and Impositions, for any longer or further time, or to grant any other subsidies for raising a revenue, sufficient for the necessary expences of the said Government, notwithstanding four companies of soldiers, and some ships of war,*
 have,

have, during the present war, been maintained at the charge of the crown, for *the defence and security of that Province, and the trade thereof*; We your Majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, well knowing, that the security, peace and prosperity, of the said Province, and the territories depending thereon (being a frontier to the French settlements on the said Continent,) do intirely depend on a sufficient support of that Government, and being desirous, *that a revenue to arise and be paid in the said Province*, be settled on your Majesty, sufficient to defray the necessary expences of the same, and equal to what has at any time, heretofore, been enjoyed, for that purpose, by your Majesty, or any of your royal predecessors, have therefore freely and unanimously resolved to *give, and grant* unto your Majesty, your heirs and successors, for the purposes aforesaid, the *Rates, Duties, Excises, Impositions, and Sums of Money*, herein after-mentioned, and do most humbly beseech your Majesty, that it may be enacted, and be it enacted by the Queen's most excellent Majesty, by and

with the advice and consent of the Lords spiritual and temporal, and Commons in this present parliament assembled, and by the authority of the same, that from and after the publication of this Act, in her Majesty's said Province of New York, in the usual manner.

There shall be raised, levied, collected and paid, unto her Majesty, her heirs and successors, in the current money of that Province, for the purposes aforesaid, the Rates, Duties, Excises, Impositions, and Sums of Money herein after-mentioned, in manner and form following, that is to say.

The bill then proceeds to enact a duty of four-pence *per* gallon on rum, brandy, and all distilled liquors imported, to be paid by the importer; a duty of forty shillings *per* butt or pipe, on all sweet wines; forty shillings *per* hoghead, on all red wines, &c.

All goods and merchandizes imported, (except such as are herein after-mentioned) to pay forty shillings for every hundred pound value of the prime cost.

All

All goods, wares and merchandize, commonly called Indian goods, imported, to pay five pounds for every hundred pounds value of the prime cost, over and above the forty shillings *per* hundred pounds value.

The said goods and merchandizes to be computed at the several rates and values enumerated in the bill.

A further duty of six pounds for every hundred pounds value of the prime cost upon other goods, commonly called Indian goods.

A duty of six shillings laid on every barrel of gun powder, every hundred pounds weight of lead, every gun, and four-pence for every gallon of rum, carried up Hudson's river.

A duty of six shillings on *every barrel of beer, cyder, &c. sold by retail.*

The owners of all furs, and peltry exported, to pay the enumerated duties thereon laid.

That the several Rates, Duties, &c. hereby granted, be levied and paid in such manner, as is directed by the act of Assembly, past in 1692.

That nothing herein contained do extend to charge the particular goods herein specified, or any other whatsoever, of the growth of Her Majesty's plantations in America, imported into the said Province.

We approve of this draught,

Ed. Northey.

Ro. Raymond.

Mar. 13, 1710-11.

The fatal change of the ministry which soon after took place, and the expedition which was then fitting out against Canada, for the furtherance of which, the Colonies promised great matters, though, as Swift says, in a paper writ in 1712, it
 “ failed partly by the accidents of a storm,
 “ and partly by the *stubbornness and treachery of some in that Colony, for whose relief,*
 “ *and at whose entreaty,* it was in some measure designed ;” yet, on these accounts, the
 Bill

Bill was delayed for that year. But the assembly of that Colony were informed in the next, that if they did not renew their former grants, the Bill would be carried into parliament the following session. To prevent which, the assembly, on the 1st of July, 1713, passed an "act for a supply to be granted to her Majesty, for supporting that government for one year;" and on the 6th of July, in the following year, continued the said act for one year more. In this year they also granted the sum of 27,680 l. for paying the governor, and other public creditors, the arrears which were then due, from the deficiencies of former grants. The shortness of the term, however, for which the supply was granted, gave offence in England; and the assembly was again threatened with passing the Bill above recited in parliament, if they did not in the next grant prolong the term to five years. And this threat being then made by the great and able ministers, who conducted the affairs of this country in that difficult but happy crisis, the accession of George the First; the assembly ventured not to refuse, but on the 5th of July, 1715,

passed " an act for a supply to be granted
 " to his Majesty, for supporting his go-
 " vernment, in the Province of New York,
 " *for the term of five years.*" It was to this
 transaction I alluded, when I selected two
 of the late resolutions of the New York
 assembly, and inserted them with a view to
 a further consideration of the assertions
 they contained; and the reader will cer-
 tainly be gentle in his censure of those re-
 solutions, if he imputes them to that as-
 sembly's ignorance of this part of their his-
 tory, which is so direct a contradiction to
 their assertion, " that from the first settle-
 " ment of the Colonies, it *has been the sense*
 " *of the government at home, that such grants*
 " *could not be constitutionally made by parlia-*
 " *ment.*"

In the late reign, the assembly of Jamai-
 ca thought fit to withhold some usual grants,
 for the support of the government of that
 island; and, upon that occasion, the minis-
 ters desired the opinion of the then attor-
 ney and solicitor general, Sir Clement
 Worge, and the late Lord Hardwicke, whe-
 ther the King, or his privy-council, had
 not

not a right to levy taxes upon the inhabitants of that island? To which those two great lawyers replied, " That if Jamaica " was still to be considered as a *Conquered Island*, the King had such a right, but " if it was to be considered in the same " light with the *other Colonies*, no tax could " be imposed on the inhabitants, but by " the assembly of the Island, or by *act of Parliament*."

Many other evidences to the same purpose might be produced, and perhaps they will, some time or other, be laid before the public. Those which I have communicated, are of such high authority, that none of my learned countrymen will desire further proofs of the universality, and legal foundation, of the doctrine; " that " parliament has a right to tax and bind " the Colonies in all cases whatsoever." But what will perhaps more surprize and convince the generality of my readers, both in England and in the Colonies, is a proof which I am going to produce, that the right of parliament to impose taxes in the Colonies, was not only admitted in the Colonies, but even the exercise of it deemed

deemed necessary *there* so late as the year 1755.

When hostilities were commenced in America, between the French and the British Colonies, a convention or assembly was proposed, and called by authority from the King, to consist of committees from the several Provinces, in order to settle one general plan of operations against the common enemy, and to raise a common fund for defraying the expence. I have already given some extracts from the journal of the proceedings of this assembly, which met at Albany in the year 1755. General Shirly, who was then governor of Massachusetts Bay, a gentleman not only highly agreeable to the people in that Province, but much esteemed in the other Colonies also, and whose knowledge of the state of that country was universally confided in, presented a plan to these committees, among other things, proposing a proportionate assessment on their several Colonies; of which those committees highly approved; but the difficulty was, “ to find a method by which
“ such of the Colonies, as might be un-
“ willing

“willing to raise their quota, should be
 “compelled to it.” No Colony assembly
 would, nor indeed could, intrust its com-
 mittee, with coercive and obligatory autho-
 rity, to tax the inhabitants; much less
 could they, or would they, invest the ma-
 jority of an assembly, composed of com-
 mittees from other Colonies, with such
 powers. General Shirly therefore propos-
 ed, as part of his plan, that *application*
should be made to parliament, to empower the
committees of the several Colonies, to tax the
whole according to their several proportions.
 And to this the Committees also agreed,
 and what will now be thought still more
 extraordinary, is, when this whole plan was
 laid before the assembly of New York,
 that assembly, on the 27th of March, 1755,
 resolved, “That the scheme, proposed by
 “governor Shirly, for the defence of the
 “British Colonies in North America, is
 “well concerted, and that this Colony
 “joins therein.”

The jealousy or backwardness, however,
 of the other Colonies, prevented this plan
 from being carried into execution; and in
 the

the next year that able governor saw sufficient reason to be convinced, that the general assembly of committees would not be come into by all the Colonies, and would not answer any good purpose if it was. He therefore altered his plan, and drew up that, of which the following is an extract.

1st, " That the provision for defraying the expence of the troops, &c. should be made, by establishing a general fund in all the Colonies, each Colony to contribute towards it in proportion to its abilities."

2d, "*That the several assemblies within the Colonies will not agree among themselves upon such a fund.*"

3dly, " That consequently *it must be done in England*, and that the only effectual way of doing it there, will be *by an act of parliament, in which I have great reason to think the people will readily acquiesce*, and that the success of any other method will be doubtful."

4thly, " That the proper method of doing it by parliament, will be to assess each Colony in a sum certain, proportioned to its abilities."

5thly,

5thly, " That the most equal and proper rule of computing the respective abilities of the several Colonies, is the number of the rateable white male polls, and black male and female polls, within each government; and that the mixing any other rule with that, will greatly perplex the execution of the scheme,"

6thly, " That however, for the general satisfaction of the people in each Colony, it would *be adviseable to leave it to their choice*, to raise the sum *assessed upon them* according to their own discretion, whether that is done by a *stamp duty*, excise upon rum, or any other tax they shall judge most for their own ease; and on failure of their raising the sum in any other way, that then the sum assessed shall be apportioned according to the number of the black and white polls each taxable person is possessed of, and collected by proper officers, who shall have power given them to do it by warrants of distress upon their several estates, or imprisonment of their persons for want of estate to be come at."

Thus does it appear, that too much honour

nour has been done to Mr. Grenville, in imputing to him the origin of an opinion, that parliament had a right to impose taxes in the Colonies, or that a general fund for defraying the charge of *military services* there should be raised by act of parliament, in default of the Colonies raising it by their own assemblies. The one opinion is as ancient as the Colonies, and the other was the result of the joint deliberations of the committees from almost all the Colonies. This might be made still more evident, were the present a proper time to go more into particulars, or to publish American correspondence. But it is plain, that the transaction respecting New-York, which has been so fully stated, afforded the precedent, by which his measure of the stamp act was chiefly directed.

In the year 1764, the Colonies were made acquainted through their agents, that a revenue would be required from them, towards defraying the charge of the troops kept up among them, and to give this intimation the more efficacy, a resolution was propounded to, and adopted by the house of commons, that for
the

the purpose of raising such a general revenue, a stamp duty *might be necessary*.

The Colonies by this, saw that government was in earnest, and they could not doubt of the intimation given them from the king's ministers ; that if they did not make grants in their own assemblies, parliament would do it for them. Mr. Grenville, indeed, went so far as to desire the agents to acquaint the Colonies, that if they could not agree among themselves, upon raising a revenue by their own assemblies, yet if they all or any of them disliked stamp duties, and would propose any other sort of tax which would carry the appearance of equal efficacy, he would adopt it. But he warmly recommended to them the making grants by their own assemblies, as the most expedient method for themselves on several accounts. The issue of this business is well known. The Colonies universally refused to raise a fund among themselves, for those who *seemed inclined to do so*, made no offer of any specific sum, nor made any grant in their assemblies, nor laid any tax for the purpose. They did not imitate the more prudent

prudent conduct of the New-York assembly, in the year 1715, and parliament therefore did in 1765, what parliament would have done in that year, if the like refusal had been made.

I shall here stop my researches into the political history of the Colonies, and of the conduct which has been held by parliament and ministry towards them. And let me now ask the advocates for their independency, upon which period of this history it is, that they would fix, as the epocha of the Colonies emancipation from the sovereign authority of the supreme legislature of the realm, or where will they carry us for those pretended rights and privileges which exempt them from its jurisdiction? We have sought for them in the statute books, but we found them not; we have looked for them in the conduct of a long series of ministers; and in the opinions of the truly learned and great lawyers, that were of council to our kings, in the past ages, and lo, they are not there. Where then shall we hope to meet with them? In
extra-

extravagant declamations and unfounded arguments. In the weak artifices of party, and in the studied misrepresentations of designing and interested men.

And, "*are these thy gods, O Israel?*" Was it by such miserable sophistry, and unintelligible jargon, that you my fellow-subjects in the Colonies, have been deluded into the absurd and vain attempt of exchanging the mild and equal government of the laws of England, for prerogative mandates : of seeking to inlarge your liberties, by disfranchising yourselves of the rights of British subjects. Where would your madness carry you ? or at what point will your frenzy suffer you to stop ? Will you renounce your claim to the title and privileges of Englishmen, and cut yourselves off from the protection and benefits peculiar to the subjects of the British state ? Will you relinquish the fishery, and restore it to the inhabitants of the deserted western coasts of England ? Will you expose your trading ships to the depredations of the Barbary Corsairs, or subject your products to the heavy and prohibitory impositions of rapacious ministers in foreign countries ?

P

Will

Will you exclude your ships from British ports, and throw away the lucrative employment of transporting British merchandize, to the revival of the expiring English trade of ship-building? Will you subject yourselves to the alien's duties on all your products imported into Great Britain, and deprive yourselves of the most advantageous market in Europe for the sale of your commodities, and from which you draw so *large a balance*, with which to improve your lands, build your houses, and purchase slaves? * Will you debar yourselves of that unbounded credit, which the generous spirited merchants of England have given you, even to the amount of double your whole capital, and by the use of which you have arrived at your present opulent condition, insomuch, that instead of your arrogant

* It is one of the impudent artifices of the Colony advocates, to endeavour to persuade the people of England, that *they* get all the people in the Colonies can scrape together by their labour and traffic with all the world, and that it all goes in payment of the *balance due from the Colonies to Great Britain*. Whereas the truth is, that Great Britain imports to a much greater amount from the Colonies, than she exports to them, and the balance in favour of the Colonies, in their trade with her, is that on which most of them live and raise their fortunes.

The exports to the Colonies in 1765, and 1766, and imports from them in those years stand thus :

In 1765	Imports 3,549,070	Ex. 3,334,980	Bal. 214,090
1766	3,987,675	3,320,954	666,721

Balance in favour of the Colonies in those two years 880,811
boast,

boast, that London has risen out of the Colonies, it may truly be said, that the Colonies have sprung from the Royal Exchange of London? If you be content to carry your paracidial designs at the hazard of these consequences to *yourselves*, be at least so candid and grateful to your mother country, as to declare yourselves in plain terms independent of her, that *her* friends may in time provide for her safety, and make use of the present interval of war, to cicatrise her amputated body. Or if you do not mean to push matters to this extremity, if regard for your own interest shall make you still seek a union with her; be so fair as to say upon what terms you mean to live with her? Do you mean to share in all the benefits of her people, and to bear none of their burdens? Is she to *pay all* and you to *enjoy all*? Are your lands to be cultivated, because their products are untaxed, and her's to lie deserted from the excessive weight of taxes upon every species of vegetation? Are your manufactures to rival her's in every market, from your manufacturers being exempt from taxes, whilst British manufacturers pay taxes upon every thing they consume? Is Britain to impoverish her people, by subsisting a vast military force at *her sole expence*, to guard the seas for your ships to pass thereon in safety? Is she to take every measure to compel her people to desert her, and seek an assylum from taxes in your happier

pier climates, and thus raise your empire on the ruin of her own? Surely you will not be so unreasonable, to expect these things at her hands? Say then, what is it you propose? Which of her laws are to be abrogated, or must she cancel them all? Will you acknowledge the authority of her legislature *in any instance*? Or will you allow her to be your sovereign in nothing? Do not trifle with her, by starting one objection after another, till you prevail on her to whittle down her authority, so that it shall become neither of use to herself or you; but tell her what it is you are willing to *suffer her to retain*, as well as what it is you *choose she should give up*? Name but the thing you will agree to, and you may then hope to find attention to your complaints? But do not flatter yourselves, that she is yet so despicable as to be terrified by your threats, or so ignorant of your affairs, as to imagine you can carry them into execution. There is a spirit rising in this country, which will make you to know its strength and your own weakness, that will convince you of its authority and of your dependence.

I have honestly endeavoured to call you back to your duty, by shewing you the weakness of the ground you stand upon, and the fatal consequences which hang over you.

If

If you do not avail yourselves of the information I have given you, perhaps the people of England may be led by it to conceive more justly of their *Rights*, and of your *Intentions*, than they have hitherto done; and may compel you to submit, if they unhappily find no argument, but force, can induce you to obey. It is time indeed for my countrymen to bestir themselves, and to vindicate the honour of the state, and the rights of its legislature—for will not posterity learn with amazement, that the Commons of Great Britain, in the first parliament of George the Third, with this cloud of evidence before their eyes, seemed to doubt of the authority of the legislature to bind the Colonies, and left it to their successors to *carry into execution* those rights of parliament, which they had scarcely sufficient courage to *declare*. They will indeed find two protests in the Lords Journals, which will shew them, that there were then men in parliament who had ability to discern, and firmness to assert their own, and the people of England's rights, at that disgraceful æra. But the history of those times will inform them, however unwillingly the feelings of the historian may suffer him to record the dishonour of his country, that those great statesmen were not then the servants of the crown, and that those to whom the King had intrusted his ministry, were directed, in their
 - measures,

measures, by *the very men* who had fomented and countenanced, by their public and private writings and discourses, resistance in the Colonies to acts of parliament. They will be told, perhaps, how truly posterity must judge, that the majority of that House of Commons were the followers of every minister, and the tools of every faction, that could possess themselves of the power to dispense places and pensions among their dependants; that they were reproached with their servility, even by those whom they most meanly flattered. They will hear, that the lawful authority of the sovereign, had been debased and insulted by the sworn servants of the crown, whose immediate duty it was to support it. If they can give credit to such representations, they will cease to be astonished at the repeal of a law by the same parliament, which enacted it for no better a reason, than that the Colonies declared they would not obey it. But they will gladly turn from these gloomy reflections, and place their hopes in the wisdom and vigor of the new House of Commons, which they will be told, was freely chosen by the people in 1768. They will flatter themselves, that that House of Commons eagerly seized the first fit occasion for vindicating its honour, and restoring the sinking dignity of parliament to its former lustre. They will hope to find those who had been misled by the artful misrepresentations

sentations of the Colony advocates, making haste to repair to their country the cruel injuries they had done her. They will expect to see a well considered plan proposed, for healing the unhappy breach between Great Britain and her Colonies, and that such temperate and effectual measures were adopted, and so firmly pursued, that before the revolt became general, and discrimination impossible, the mass of the people were restrained from rebellion, by the wisdom and spirit of their councils. They will persuade themselves, that the people of England, and the trading part especially, *whose property and commercial interests so much depend upon the power of parliament to bind the Colonies*, set aside every smaller consideration, and private concern, and united as one man in support of their common rights, and in the furtherance of measures for bringing back the Colonies to their duty.

The journals of parliament in the present session will shew how well founded were their hopes.

APPENDIX.

A P P E N D I X.

*Extracts from the JOURNALS of the
HOUSE of COMMONS.*

12 *James the First, Anno 1614.*

Jovis 12 May.

THE company for Virginia prefer a petition, which read, and Monday Nine of the Clock appointed for the counsel for the company of Virginia in this house.

17 May. Mr. Martin, of counsel with the company, cometh in before the lords. Mr. Martin's speech.--Queen Elizabeth, of ever-growing memory, compared by the king to Augustus, that she, lady of the seas, whole fleets stopping.—The red cross in one of her ships; the discovery,

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covery, by her subjects, of all the seas about the world. Amadis, and after Whyte, employed by Sir W. Raleigh in those discoveries—He termed a subject of envy in his greatness, now a mirror of the vanity of all earthly things.

The plantation begun 1606—Religion—Captain Newport, Sir Thomas Gates—Virginia a bridle for the Neapolitan courser, if our youth of England able to fit him; for which they will give them golden spurs.

L. Delawar—That now a settled plantation—All things necessary for food—That this conquest just—The Spaniards course in the Indies—Don John D'Aquila in Ireland—Our usage of the Indies so merciful and respectful, that this country never yet felt the yoke of the plow—Objection, That if this undertaken by this house and king, this might prove to a war.—Answer, That this no just cause of offence—The name given by the queen.—The Spaniards defend the West Indies, the Portuguese the East, the French the river of, the Hollanders

landers the forts in the Moluccos—
 That the Spaniard, by our forces, drawn
 to that extremity, that they would—
 That this city hath not three armorers—
 This time of relief for the king---*That*
they require is but a few honest labourers
burthened with children—Moveth a com-
 mittee may consider of *the means* for this
 for seven years, at which some of their
 company may be present---Columbus
 his offer to Henry VII. neglected be-
 cause no present profit---That this
 country giveth hope of all those commo-
 dities which a southern country can pro-
 mise.

Sir Roger Owen moveth, That the
 treasurer of Virginia, and those that be
 of that company, shall withdraw them-
 selves till the matter be debated---Mr.
 Brooke *contra*, For if a bill here that
 concerneth Yorke, he not to be w. h-
 drawn, for *that it concerneth the common-*
wealth.—Sir Edward Montagu, That
 the speech of Mr. Martin the most un-
 fitting that ever was spoken in this house.
 Sir Edward Hobby thinketh it fit he
 a 2 should

should be called to the bar for his speech, wherein he hath taxed the last parliament. Several other members to the same purpose. Sir Edward Hobby, That the treaty of the king's *relief* may precede *that of Virginia*---Sir George Moore, That an extraordinary favour to admit counsel here upon a petition---That the speech strange, &c.

Ordered, He shall come to the bar to-morrow, standing---Mr. Speaker to charge him; he to make his submission.

JOURNAL, 6 February, 18 James,
1620.

Sir Samuel Sands sheweth the cause of Sir Edward Sands's absence---His business about the Virginia business. A patent now drawing about it---Desireth to excuse him till that business over.

Sir Edward Gyles---*Virginia not to keep him from England*---The Serjeant to be sent for all members now in town, as well lawyers as others.

JOURNAL

A P P E N D I X.

JOURNAL, 19 *James*, 1621.

17 April. Sir Edward Sands delivered from the sub-committee to the grand-committee, five heads of the decay of trade---3dly, The importation of Spanish tobacco, for which 60,000*l.* paid yearly, and 60,000*l.* loss in commodity. So as loss of importing 120,000*l.* *per Ann.* of bullion; and resolved 100,000*l.* yearly at least---The remedy---To supply tobacco out of Virginia and the Summer Islands, and to prohibit all other tobacco: that resolved, this prohibition might be without breach of treaty---That as great difficulty at first to plant tobacco whence now cometh, as in Virginia.

18 April. Sir William Stroude. To banish tobacco generally, and to *allow Virginia a certain time for it.*

Mr. Cary---To banish tobacco generally, and *help Virginia by some other means.*

Mr. Solicitor---loveth England *better* than Virginia---A great hurt to *all*

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the state of our kingdom. To contribute rather to Virginia otherwise.

Sir Edward Sackville---Not to banish all till order for *supply* of Virginia, else *all the people there undone.*

Mr. Ferror---Fit to banish all, yet now 4000 *English there who have no means as yet to live on.*

Sir Harry Poole---Against all in general. To pull it up by the roots. *To help Virginia otherwise.*

Sir Joseph Jephson *accordant*---The Virginia company never heard---Wine and drink hurt many, yet to banish it will kill here.

Mr. Smyth---Hath his interest in Virginia and Summer Islands---The company restraineth it by all means it can. To give it some time, *else we overthrow the plantation*---Summer Islands and Virginia *holden of East Greenwich,*

23 April 1624. A petition read from two captains, *Planters in Virginia,* Raphe Hamor, William Tucker.

Sir Edward Peyton---That he reported this business to the grand committee;
but

A P P E N D I X. vii

but Sir Edward Coke, in his report, forgot it.

Sir Edward Sands---The pretence of this patent (for tobacco) the stop of the great abuse of tobacco---That the patentees promised the king to do nothing to the prejudice of the *plantation* of Virginia---*yet now labour utterly to overthrow it*---That the tobacco of Virginia now almost as good as Spanish, and, within a year, will be as good---The proclamation *for the forfeiture strange, being without warning, and forfeited at the first shipping in Virginia.*

JOURNAL, 25 April, 1621.

“ An act for the free liberty of fishing,
“ and fishing voyages, to be made and
“ performed on the sea coasts and places
“ of Newfoundland, Virginia, and New-
“ England and *other coasts and parts* of
“ America.”

Sir Edward Sands—That some have gotten from the king, a grant of the land in Virginia—Two colonies first in Virginia: Northern and Southward. The last hath proceeded with

a 4

100,000 l.

100,000 *l.* charge, the Northern not. *Now desired to proceed*—Which called *now New England*. That this fishing twice a year far better than that of Newfoundland—That the Northern colony have got a sole fishing there &c. the company of Virginia. The king acquainted with it, stayed the delivery of the patent. That the colony of Virginia (*i. e.* the Southern) desireth no approbation of this fishing to them. This will bring in 100,000 *l. per ann.* hither in coin. The English, as yet, little frequent this, in respect of this prohibition, but the Dutch and French, moveth therefore, *a free liberty for all the king's subjects for fishing there*—That the *taking of timber and wood* no prejudice to the colony—The Northern colony of Virginia, *viz.* New England *now prohibiteth timber and wood* where nothing worth, and *take away* the salt the merchants leave there.

Mr. Secretary—Doubteth the sub-committee hath not heard the other part—Doubteth the fishermen the hinderers of the plantation—That they *burn great store*

*store of wood, and choak the havens—
Never will strain the king's prerogative
against the good of the commonwealth—
Not fit to make any laws here for those coun-
tries which not as yet annexed to the
crown.*

Mr. Neale—300 ships at least gone to
Newfoundland this year out of these
parts—That this complained of hereto-
fore to the lords of the council—London
engrosseth all trades and *places*—That the
patentees for this Northern plantation,
intended the *public good*—Intend their
private, which *hurt to the common-
wealth.*

2d. Edward VI. Free liberty for all
the subjects to go to Newfoundland for
fish. Now make men compound for
places—Take away their salt—The ad-
miral *taxed* an hoghead of train oil upon
every master of ship that appeared not
at his court—That the lords of the
council gave an order against this,
which *these planters have disobeyed*—
Exacted great sums and shot off ordnance
against the kings subjects—That London
merchants,

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merchants, by *restraining* trade and *imposing* upon trade, *undo* all trade.

Mr. Guy.—*If this house have jurisdiction to meddle with this bill, would consent to the proceeding thereof.*—That there are divers patents—*He engaged for the plantation of Newfoundland—That the king hath already done by his great seal as much as can be done here by this act.*

Mr. Brooke.—THAT WE MAY MAKE LAWS HERE FOR VIRGINIA, *for if the king give consent to this bill passed here and by the lords, THIS WILL CONTRoul THE PATENT.* The case divers for Gascoigne &c. which principalities of themselves—To commit.

Sir Edward Sands—*That Virginia holden of the manor of East Greenwich.*

Committed to Sir Edward Sands, &c.

JOURNAL, 24 May 1624.

Mr. Earl reported the bill of fishing upon the coast of America.

Mr. Guy.—That this bill pretendeth, but in truth taketh away, freedom of fishing from those which planted in the
Newfoundland

Newfoundland. Moveth, *Those which planted there may have one place*—If this be denied, will overthrow the plantation.

Mr. Neale—Contra.

Mr. Secretary.—*That this bill not proper for this house, because concerneth America.*

Mr. Delbridge.—*Not to have the plantation there hinder the free trade of fishing from this kingdom.*

Sir Edward Sands.—That some late grants by misinformation gotten, whereby our nation hindered from that freedom of fishing which other nations enjoy.

Sir Edward Gyles.—Against the recommitting this bill, compareth it with the best bill of this house.—*Engrossetur.*

JOURNAL, 1 December, 1624.

Read the third time. “ An act for
 “ the freer liberty of fishing and fishing
 “ voyages to be made and performed in
 “ the *sea coasts* and *places* of Newfound-
 “ land, Virginia, New-England and
 “ *other*

*" other the sea coasts and parts of Ame-
rica."*

Mr. Guy.—That this bill taketh away trade of fishing from those which are inhabitants of Newfoundland.—Tendereth a proviso. Mr. Neale—Against this proviso—That the choice of the first place in every harbour which desired by it restraineth all liberty of free fishing—13 Eliz. a statute to encourage them. Another 23 Eliz. Another 1 James for fishermen here—*That they may take the first place now if they can get it; but the thing desired is a choice place in every harbour, and not only for themselves but for their company.*

Mr. Secretary, *contra*.—That plantations fit to be cherished, which overthrown by this bill without the proviso—That this bill giveth priority of the stage to those that come, *and may put out those* which plant and inhabit there—*Doubteth without this proviso* the bill will never pass the royal assent.

Dr. Gooch.—Against the bill—because that, against the plantation.

Sir

Sir Edward Gyles.—To consider *whether the fishing or plantation most beneficial to the commonwealth.*

Mr. Shenvell against the proviso. So Mr. Glanville—*The trade of fishing to be regarded before the plantation; we in possession of the fishing—120,000 l. per ann. brought in by the fishing, nothing but victual carried out—That the precedence here required may make a monopoly, for they may take in so many into their company, and so by this proviso shall have the priority of places, that the rest will be in effect debarred.*

Upon question the proviso rejected—
The bill upon question passed.

JOURNAL, 17 March, 1624.

Sir Edward Coke reported from the committee for *grievances*—Have *condemned* one, viz. Sir F. Gorge *his patent for a plantation in New England*—Their counsel heard the exceptions being first delivered them—Resolved by consent---
The charter dated 3 Nov. 18th James 1620---That the clause in the patent,
that

*that no subject of England shall visit the coast upon pain of forfeiture of ship and goods---*The patentees *have yielded* English fishermen shall visit, and will not *interrupt* any fisherman to fish there, For he no new discoverer; fishermen of this and other nations having fished there before his patent. Drying of nets, salting of their fish, &c. incident to their fishing. Whereunto he also agreed--- After he was gone---After debate overruled, *the fishermen might take timber for repair of their ships*: first, *quia*, incident ---2dly, Taken so before his patent---3dly, Fishermen never take any timber with them---4thly, *Bring in great store of money for their fish*---Resolved, English fishermen *shall have* fishing, with all incidents of drying fish, nets, timber, &c.---Secondly, That the *clause of forfeiture being only by patent, and not by act of parliament*, VOID.

Resolved upon question, *That the house thinketh fit* the fishermen of England shall have fishing *there*, with all the incidents

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cidents necessary of drying nets, and salting and packing.

Upon the second question---In the opinion of this house, *una voce*, the clause of confiscation *void*, and *against law*.

Upon the third question---In the opinion of this house, the fishermen of England may *take necessary wood and timber* for their ships and boats use of fishing there.

JOURNAL, 26 April 1624.

A Petition for Virginia read.

Sir Robert Phillipps---To respite the debate of this petition at this time---Moveth Thursday next *to hear them*.

Sir R. Phillipps, &c. and all that will come, to have voices; only those of the company to be present to inform, but to have no voice---Wednesday next in the afternoon, at Two o'clock, in the Star-Chamber. Counsel on both sides, if desired.

3d May, 1624. The debate concerning the fishing in New England renewed.

Sir

Sir William Earl---for the planters, who more *beneficial to the commonwealth* than the fishers---A proviso in parchment tendered to this bill, which read.

Sir Edward Coke---Sir F. Gorge his patent condemned, for the clause that none should visit with fishing upon the sea-coast. This to make a monopoly upon the sea, which wont to be free---A monopoly attempted of the wind and the sun, by the sole packing and drying of fish.

Mr. Secretary---That free fishing prayed by this bill overthroweth all plantations in these countries. That liberty *by this bill to cut down wood within one quarter of a mile of a dwelling-house*; which exceeding prejudicial to the planters---So for Newfoundland.

Mr. Glanville---The first stage worth ten of the rest---The provision for timber in Newfoundland omitted, because that an island having no rivers---But New-England hath divers rivers into it.

Both provisos upon question rejected.

The

The bill upon question passed.

26 April, 1624. Mr. Jerar delivered in a petition from the treasurer, council, and company of Virginia—read—committed.——

29 April, 1624. Mr. Speaker —— This morning he received a letter from his Majesty concerning a petition exhibited to this house about the Virginia business——read.

JOURNAL, First Session of Charles the First, 14 February, 1625.

“ An Act for maintenance of and increase of shipping and navigation, and
“ for the freer liberty of fishing and fishing voyages to be made and performed
“ in and upon the sea coasts and places
“ of Newfoundland, Virginia, New England, and other the sea coasts and
“ parts of America”—read the first time.

28 February, 1625. Read the second time and committed.

4 March, 1625. Reported and ordered to be ingrossed.

b

24 May,

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24 May, 1625. Mr. Whitby reported the grievances.—3dly. That the subject may have liberty of free fishing in the parts of America, with the incidents of timber, &c. which being restrained in the king's answer, to desire it may be enlarged, and the restraint to be presented as a *grievance*.

17 April, 1628. "An Act for the
"mainuenance and increase of shipping
"and navigation, &c." Read the second time and committed.

23 April, Mr. Glanville reporteth the bill concerning freedom of fishing in the parts of America, without any amendments.

Upon question to be re-committed, and lord Baltimore to be heard by his council.

16 May, The said bill read the third time, and passed — and sent up to the lords with seven others, the 26th May.

4 June, 1628. A petition from the *Planters* in the Summer Islands—referred to a committee.

CAP.

Trade with the BARBADA's, VIRGINIA, BERMUDA's and ANTEGO, prohibited.

WHEREAS in Virginia, and in the islands of Barbada's, Antego, St. Christopher's, Mevias, Mountfirat, Bermuda's, and divers other islands and places in America, there hath been and are colonies and plantations, which were planted at the cost, and settled by the people, and by authority of this nation, which are and ought to be subordinate to, and dependant upon, England; and hath ever since the planting thereof been, and ought to be, subject to such laws, orders, and regulations, as are or shall be made by the parliament of England. And whereas divers acts of rebellion have been committed by many persons inhabiting in Barbada's, Antego, Bermuda's, and Virginia, whereby they have most traiterously, by

force and subtilty, usurped a power of government, and seized the estates of many well-affected persons into their hands, and banished others; and have set up themselves in opposition to, and distant from, this state and commonwealth; many of the chief actors in, and promoters of, these rebellions, having been transported and carried over to the said plantations in foreign ships, without leave, licence or consent of the parliament of England; the par^l ment of England taking the premises into consideration, and finding themselves obliged to use all speedy, lawful and just means for the suppression of the said rebellion in the plantations, and reducing the same to fidelity and due obedience, so as all peaceable and well-affected people, who have been robbed, spoiled, imprisoned or banished through the said treasonable practices, may be restored to the freedom of their persons, and possession of their own lands and goods, and due punishment inflicted upon the delinquents, do
declare

declare all and every the said persons in Barbada's, Antego, Bermuda's and Virginia, that have contrived, abetted, aided or assisted those horrid rebellions, or have since willingly joined with them, to be notorious robbers and traitors, and such as by the law of nations are not to be permitted any manner of commerce or traffic with any people whatsoever; and do forbid to all manner of persons, foreigners and others, all manner of commerce, traffic and confederacy whatsoever, to be used or held with the said rebels of Barbada's, Antego, Bermuda's and Virginia, or either of them.

And be it enacted in this present parliament, and by the authority of the same, That after due publication of this act made, to the end that none may justly pretend ignorance, it shall and may be lawful for any of the fleet or ships sent forth or employed by the parliament, or any private men of war or ships, to be allowed or approved in that behalf by the immediate power of par-

liament, or the council of state established by parliament, to seize, surprize and take all and all manner of ships, vessels and goods, of what nature or kind soever, belonging to all persons whatever, whether foreigners or others, or of what nation soever, that shall be found or met withal trading or going to trade, or coming from trading with the said rebels, or in or at the said island of Barbada's, Bermuda's, Virginia or Antego aforesaid, or any part or parts thereof, or that shall hold any correspondency with the said rebels, or yield them any assistance or relief for the supporting the said rebellion : and the same ships and goods so surprized, to send in to be proceeded against in the court of admiralty by virtue of this act; and the judges of that court finding the same to be within the the tenor and true meaning of this act, to adjudge the same to be well taken, and to be good and lawful prize.

And for the better information of the said court, and to the end the proceedings therein may be acted and done according

cording to the rules of law and justice,
 and that nothing irregular may therein,
 or by the takers, be acted or committed,
 be it further enacted, That none of the
 goods nor tackle, apparel or furniture of
 the said ships so to be surprized by vir-
 tue of this act, shall be embezzled or
 purloined, but shall be preserved safe and
 intire till judgment be first given in the
 said court of admiralty, or other order or
 decree there made thereupon : and that
 all the commissions, consignments, bills
 of lading, cocquets, letters, and all other
 instruments and writings whatsoever,
 that shall be found on board the said
 ships and vessels, shall be duly sent up to
 the said court of admiralty : and that
 also two or three of the officers or prin-
 cipal persons of, or found in, every such
 ship or vessel, shall be duly sent up to
 the said court of admiralty : and that also
 two or three of the officers or principal
 persons of, or found in, every such ship
 or vessel, shall either be brought up to

be examined upon oath in the said court, as well touching the said writings found in the said ship, and the proprietors, owners and masters of the same ships, and the goods therein, and the places from whence they come, and to whom consigned, and whether bound, and such other questions and interrogatories as in each particular case shall be found meet; or otherwise, if they cannot with conveniency be sent up, that then they be so examined duly upon oath, before the chief officer of some port in England, or the next justice of the peace, concerning the premises before recited; and their examinations, together with all the writings found on board the said ships or vessels, to be duly transmitted to the said court; and the judges of the said court thereupon, and upon such other proofs and evidences as shall be duly made, or exhibited before them, shall proceed to judgment, and give definitive sentence
by

by virtue of this act, according as the nature of the fact shall be proved before them, and according to the rules and grounds of justice: And if judgment shall be given for the same to be lawful prize, then it shall be disposed in such sort and manner as in this present act afterwards limited and appointed.

And to prevent for the time to come, and to hinder the carrying over of any such persons as are enemies to this commonwealth, or that may prove dangerous to any of the English Plantations in America, the parliament doth forbid and prohibit all ships of any foreign nation whatsoever, to come to, or trade in, or traffic with, any of the English Plantations in America, or any islands, ports, or places thereof, which are planted by, and in possession of, the people of this commonwealth, without licence first had and obtained from the parliament or council of state.

And be it further enacted, ordained, and declared, by the authority aforesaid,
That

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That from and after the twentieth day of November, one thousand six hundred and fifty, it shall and may be lawful for any ship or ships set forth by the parliament, or allowed of by the parliament or council of state, to seize, take and surprize any ship or ships of any foreign nation whatsoever, that shall be outward-bound to any of the said plantations, ports or places, without such licence as aforesaid; and from and after the first of January, one thousand six hundred and fifty, it shall and may be lawful for such ships set forth and allowed as aforesaid, to seize, take and surprize any foreign ships that shall be found trading at any of the plantations, islands and places aforesaid, with such licence as aforesaid; and from and after the twentieth day of March, one thousand six hundred and fifty, it shall and may be lawful for any of the parliament's ships, or private men of war allowed of by the parliament or council of state for the time being, to seize, take and surprize

prize any ship or ships that are coming from, or have traded at any of the plantations as aforesaid, without such licence as aforesaid : And all such ships so taken, with all goods, tackle, apparel and furniture, to send into some port of this commonwealth, to be proceeded against in the court of admiralty, as in this act is ordered, limited and appointed, in case of trading to Barbada's, Antego, Bermuda's and Virginia, or any of them. All such prizes so to be taken and adjudged by virtue of this act, shall be disposed of as followeth ; that is to say, of what shall be taken of the ships set forth by the parliament, two thirds thereof to the use of the commonwealth, for the service of the navy, as the parliament shall direct ; and one other third part to be to the commanders, officers and company of those ships by whom the same shall be taken respectively, according to the usual rules of division amongst them : And for what shall be taken by private men of war allowed as aforesaid

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aforesaid, to be to the use of the owners or setters-forth of the said ships, as they themselves shall agree; one tenth part of the whole, heretofore allowable to the lord admiral, being first taken out, to be disposed by the council of state, for such uses as the parliament shall direct and appoint.

Provided always, That if any prize or prizes so taken, or any part thereof, shall appear, and be proved in the said court of admiralty, to be any ship or goods belonging to any of the well-affected and good people of this commonwealth, remaining and continuing under the obedience and protection of the parliament, and before taken and surprized from them by any enemy or rebel, or disaffected person, and afterwards again surprized and retaken by any of the fleets or ships employed in the service of the parliament, or any private man of war, allowed as aforesaid, that then such ships and goods, and every such part and parts belonging
to

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to the said good people aforesaid, shall be adjudged to be restored, and shall be, by decree of the said court of admiralty according restored to such former owner or owners, paying for, and in lieu of salvage, only one eighth part of the true value thereof; unless such ships so retaken shall appear to have been after their taking by the enemy, or rebels, or disaffected, furnished and set forth by them as men of war on their behalf: In which case the true and first owners to whom the same shall be restored, shall be adjudged to pay, and shall pay for salvage, the full moiety of the true value of the said ships so retaken and restored.

Provided nevertheless, and it is further enacted, That the council of state for the time being, have hereby power to grant licence and leave to any of the ships of this nation to go to, and trade to, Barbada's, Antego, Bermuda's, Virginia, or any of them, without prejudice or damage, any thing in this act to the contrary notwithstanding.

And

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And it is further enacted by the authority aforesaid, That the said council of state have hereby power and authority to send ships to any of the plantations aforesaid, and to grant commission or commissions to such person or persons as they shall think fit, with power to enforce all such to obedience, as do or shall stand in opposition to the parliament or their authority; and to grant pardons, and to settle governors in all or any of the said islands, plantations and places, and to do all just things, and use all lawful means, to settle and preserve them in peace and safety, until the parliament shall take further or other order therein, any letters patents, or other authority formerly granted or given, to the contrary notwithstanding.

And to the end that due intimation and publication of this act be made and public notice thereof be taken, so that none may justly plead excuse through ignorance of the same, be it ordered and enacted, That this present
act

act shall be published by the serjeant at arms attending the parliament, three several days upon the Exchange, London, at the time of the concourse of merchants thither.

Passed 3 October, 1650.



*Resolutions of the HOUSE of BURGESSES
in VIRGINIA, 29 May, 1765.*

Resolved,

THAT the first adventurers and settlers of this his majesty's colony and dominion of Virginia, brought with them and transmitted to their posterity, and all other his majesty's subjects since inhabiting in this his majesty's said colony, all the liberties, privileges, franchises and immunities, that have at any time been held and enjoyed, and possessed by the people of Great-Britain.

Resolved, That by two royal charters granted by king James the First, the colonies

colonies aforesaid are declared entitled to all liberties, privileges and immunities, of denizens and natural-born subjects to all intents and purposes, as if they had been * *abiding and born within the realm of England.*

Resolved, That the taxation of the people by themselves, or by persons chosen by themselves to represent them, who can only know what taxes the people are able to bear, or the easiest method of raising them, and must themselves be affected by every tax laid on the people, is the only security against a burthenfome taxation, and the † *distinguishing characteristic* of British freedom, without which the ancient constitution cannot exist.

Resolved, That his majesty's liege people of this his most ancient and loyal colony,

* *Quere,* If they had been *abiding and born within the realm of England,* would they not have been bound by acts of parliament?

† If these be the *distinguishing characteristics* of British freedom, they are not then it seems the *common rights of mankind,* as the Pennsylvania assembly asserts.

colony, have *without interruption*† enjoyed the inestimable right of being governed by *such laws* respecting their internal polity and taxation, as are derived from their own consent, with the approbation of their sovereign or his substitutes, and that the same hath been constantly recognized by the king and people of Great-Britain.



Resolutions of the ASSEMBLY of PENNSYLVANIA, 21 September, 1765.

THE house taking into consideration, that an act of parliament has lately passed in England, for imposing certain stamp-duties and other duties on

‡ No act of parliament it should then seem has ever been of force in Virginia, which respected the internal polity of the people. The act of king William which alters the succession to the crown. That which abrogates resolutions, acts or proceedings of the colony assemblies, if repugnant to acts of parliament, and the act of George the Second, which makes the lands in America assets, have therefore never been carried into execution in Virginia, if we take the assembly's word for it.

his majesty's subjects in America, whereby they conceive some of their most essential and valuable rights, as British subjects, to be deeply affected, think it a duty they owe to themselves and their posterity, to come to the following resolutions.

Resolved, Nem. Con. That the assembly of this province have from time to time, *whenever* requisitions have been made by his majesty, for carrying on military operations for the defence of America, *most chearfully and liberally* † contributed their full proportion of men and money for those services.

Resolved, That whenever his majesty's service shall for the future require the aids of the inhabitants of this province, and they shall be called upon for that purpose in a constitutional way, it will be their indispensable duty most chearfully and liberally to grant to his majesty

“ † Though Pennsylvania is, without contradiction, the richest and the most concerned in this expedition, yet it has *supplied nothing hitherto.*”

Gen. Braddock's Letter to Sir Thomas Robinson,
18 Mar. 1755.

their

their proportion of men and money, for the defence, security, and other public services of the British American colonies.

Resolved, That the inhabitants of this province, are intitled to all the liberties, rights and privileges of his majesty's subjects in Great-Britain or elsewhere, and that the constitution of government in this province is founded on the natural rights of mankind, and the noble principles of English liberty, and therefore is or ought to be perfectly free.

Resolved, That it is the interest, birth-right, and indubitable privilege of every British subject, to be taxed only by his own consent, or that of his legal representatives, in conjunction with his majesty or his substitutes.

Resolved, That the only legal representatives of the inhabitants of this province, are the persons they annually elect to serve as members of assembly.

Resolved therefore, That the taxation of the people of this province by any other persons whatsoever, than such their representatives in assembly, is un-

constitutional, and subversive of their most valuable rights.

Resolved, That the laying taxes upon the inhabitants of this province in any other manner, being manifestly subversive of public liberty, must of necessary consequence be utterly destructive of public happiness.

Resolved, That the resting an authority in the courts of admiralty, to decide in suits relating to the stamp-duties and other matters foreign to their proper jurisdiction, is highly dangerous to the liberties of his majesty's American subjects, contrary to Magna Charta, the great charter and fountain of English liberty, and destructive of one of their most darling and acknowledged rights, that of trial by juries.

Resolved, That it is the opinion of this house, that the restraints imposed by several late acts of parliament on the trade of this province, at a time when the people labour under an enormous debt, must of necessity be attended with the most fatal consequences, not only to
this

this province, but to the trade of our mother-country.

Resolved, That this house think it their duty, thus firmly to assert, with modesty and decency, their inherent rights, that their posterity may learn and know, that it is not with their consent and acquiescence, that *any taxes should be levied on them by any person but their own representatives*, and are desirous that these their resolves should remain on their minutes, as a testimony of the zeal and ardent desires of the present house of assembly, to preserve their inestimable rights, which as Englishmen they have possessed *ever since this province was settled*,* and to transmit them to their latest posterity.

* What a strange mistake have the parliament and people of England been under for a century past? They always imagined, that the acts of parliament imposing taxes on certain commodities carried into, and out of the colonies, had extended to Pennsylvania; whereas from this last resolution it appears, That *no taxes have ever been levied there, ever since the province was settled, by any person but their own representatives!*

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*Extract from the printed JOURNAL of the
House of Representatives of the MASSA-
CHUSETTS BAY. October 29, 1765.*

THE house, agreeable to the order of the day, (there being a full house) entered into the consideration of sundry resolves, which were particularly considered, and passed, as follows, viz.

WHEREAS the just rights of his Majesty's subjects of this province, derived to them from the British constitution, as well as the royal charter, have been lately drawn into question. In order to ascertain the same, this house do unanimously come into the following resolves.

I. *Resolved*, That there are certain essential rights of the British constitution of government, which are founded in the law of God and Nature, and are the common rights of mankind;—therefore.

II. *Resolved*, That the inhabitants of this province are unalienably entitled to those essential rights in common with all
men :

men: and that no law of society can, consistent with the law of God and Nature, divest them of those rights.

III. *Resolved*, That no man can justly take the property of another without his consent: and that upon this original principle the right of representation in the same body, which exercises the power of making laws for levying taxes, which is one of the main pillars of the British constitution, is evidently founded.

IV. *Resolved*, That this inherent right, together with all other essential rights, liberties, privileges, and immunities of the people of Great-Britain, have been fully confirmed to them by *Magna Charta*, and by former and later acts of parliament.

V. *Resolved*, That his majesty's subjects in America are, in reason and common sense, intitled to the same extent of liberty, with his majesty's subjects in Britain.

VI. *Resolved*,

VI. *Resolved*, That by the declaration of the royal charter of this province, the inhabitants are entitled to all the rights, liberties and immunities of free and natural subjects of Great-Britain, to all intents, purposes and constructions whatever.

VII. *Resolved*, That the inhabitants of this province appear to be entitled to all the rights aforementioned, by an act of parliament, 13th of Geo. II.

VIII. *Resolved*, That those rights do belong to the inhabitants of this province, upon principles of common justice; their ancestors having settled this country at their sole expence; and their posterity having constantly approved themselves most loyal and faithful subjects of Great-Britain.

IX. *Resolved*, That every individual in the colonies is as advantageous to Great-Britain, as if he were in Great-Britain, and held to pay his full proportion of taxes there; and as the inhabitants of this province pay their full proportion
of

of taxes, for the support of his Majesty's government here, it is unreasonable for them to be called upon to pay any part of the charges of the government there.

X. *Resolved*, That the inhabitants of this province are not, and never have been, represented in the parliament of Great-Britain : and that such a representation there, as the subjects in Britain do actually and rightfully enjoy, is impracticable for the subjects in America : —and further, that, in the opinion of this house, the several subordinate powers of legislation in America, were constituted upon the apprehensions of this impracticability.

XI. *Resolved*, That the only method, whereby the constitutional rights of the subjects of this province can be secure, consistent with a subordination to the supreme power of Great-Britain, is by the continued exercise of such powers of government as are granted in the royal charter, and firm adherence to the privileges of the same.

XII. *Resolved*,

XII. *Resolved*, as a just conclusion from some of the foregoing resolves, That all acts made by any power whatever, other than the general assembly of this province, imposing taxes on the inhabitants, are infringements of our inherent and unalienable rights, as men and British subjects, and render void the most valuable declarations of our charter.

XIII. *Resolved*, That the extension of the powers of the court of admiralty within this province, is a most violent infraction of the right of trials by juries.—A right, which this house, upon the principles of their British ancestors, hold most dear and sacred; it being the only security of the lives, liberties and properties of his Majesty's subjects here.

XIV. *Resolved*, That this house owe the strictest allegiance to his most sacred Majesty king George the Third: that they have the greatest veneration for the parliament; and that they will, after the example of all their predecessors, from the settlement of this country, exert

ert themselves to their utmost, in supporting his Majesty's authority in the province,—in promoting the true happiness of his subjects; and in enlarging the extent of his dominion.

Ordered, That all the foregoing resolves be kept in the records of this house; that a just sense of liberty, and the firm sentiments of loyalty, may be transmitted to posterity.



*Extract from the printed JOURNAL of the
ASSEMBLY of NEW-YORK, 18 De-
cember, 1765.*

THE general-assembly of the colony of New-York, taking into their most serious consideration several acts of parliament lately passed, granting stamp and other duties to his majesty, and restricting the trade of this colony, apprehending an abolition of that constitution under which they have so long and happily enjoyed the rights and liberties

ties of Englishmen, and being clearly of opinion, that it is the interest of Great-Britain, a dependence on which they esteem their felicity, to confirm them in the enjoyment of those rights ; think it their indispensable duty to make a declaration of their faith and allegiance to his majesty king George the Third, of their submission to the supreme legislative power ; and at the same time to shew, that the rights claimed by them are in no manner inconsistent with either : for which purpose they are come to the following resolutions, that is to say,

Resolved, Nem. Con. That the people of this colony owe the same faith and allegiance to his majesty king George the Third, that are due to him from his subjects in Great-Britain.

Resolved, Nem. Con. That they owe obedience to all acts of parliament, not inconsistent with the essential rights and liberties of Englishmen, and are intituled to the same rights and liberties, which
his

his majesty's English subjects, both within and without the realm, have ever enjoyed.

Resolved, Nem. Con. That his majesty's subjects in England are secured in the superior advantages they enjoy, principally by the privilege of an exemption from taxes not of their own grant, and their right to trials by their peers. — The first secures the people collectively from unreasonable impositions; and, without the second, individuals are at the arbitrary disposition of the executive powers.

Resolved, Nem. Con. That the colonists did not forfeit these essential rights by their emigration; because this was by the permission and encouragement of the crown; and that they rather merit favour, than a deprivation of those rights, by giving an almost boundless extent to the British empire, expanding its trade, increasing its wealth, and augmenting that power which renders it so formidable to all Europe.

Resolved,

Resolved, Nem. Con. That the acts of trade giving the right of jurisdiction to the admiralty courts, in prosecutions for penalties and forfeitures, manifestly infringes the right of trials by jury; and that the late act for granting stamp-duties, not only exposes the American subjects to an intolerable inconvenience and expence, by compelling them to a defence at a great distance from home; but, by imposing a tax, utterly deprives them of the essential right of being the sole disposers of their own property.

Resolved, Nem. Con. That all aids to the crown, in Great-Britain, are gifts of the people by their representatives in parliament, as appears from the preamble of every money-bill, in which the Commons are said to give and grant to his majesty.

Resolved, Nem. Con. That it involves the greatest inconsistency with the known principles of the English constitution, to suppose, that the honorable house of Commons of Great-Britain, can, without divesting

divesting the inhabitants of this colony of their most essential rights, grant to the crown their, or any part of their, estates for any purpose whatsoever.

Resolved, Nem. Con. That from the first settlement of the colonies, it has been the sense of the government at home, that such grants could not be constitutionally made; and therefore applications for the support of government, and other publick exigencies, have always been made to the representatives of the people of this colony; and frequently during the late war by immediate orders from the crown, upon which they exerted themselves with so much liberality, that the parliament thought proper to contribute to their reimbursement.

Resolved, Nem. Con. That if the people of this colony should be deprived of the sole right of taxing themselves, or presenting such sums as the publick exigencies require, they would be laid under the greatest disadvantages, as the
united

united interest of the electors, or elected, which constitute the security of his majesty's subjects in Great-Britain, will operate strongly against them.

Resolved, Nem. Con. That the impracticability of inducing the colonies to grant aids in an equal manner, proportioned to their several abilities, does by no means induce a necessity of divesting the colonies of their *essential rights*.

Resolved, Nem. Con. That it is the duty of every friend to Great-Britain and this colony, to cultivate a hearty union between them.

Resolved, Nem. Con. That if the honorable house of Commons insist on their power of taxing this colony, and by that means deprive its inhabitants of what they have always looked upon as an undoubted right, though this power should be exerted in the mildest manner, it will teach them to consider the people of Great-Britain as vested with absolute power to dispose of all their property, and tend to weaken that affection

fection for the mother-country, which this colony ever had, and is extremely desirous of retaining.

Resolved, Nem. Con. That in order to keep the colonies in due subjection to, and dependence upon Great-Britain, it is not necessary to deprive them of the right they have long enjoyed of taxing themselves; since the same right has been enjoyed by the clergy within the realm, and by all the subjects of Great-Britain without the realm, until the late innovation.

Resolved, Nem. Con. That the duties lately imposed by act of parliament on the trade of this colony are very grievous and burthensome, and, in the apprehension of this house, impossible to be paid; have already greatly diminished the advantageous traffick heretofore carried on with the foreign islands in the West-Indies; and in consequence, must render us unable to purchase the manufactures of Great-Britain.

I. A P P E N D I X.

*Resolutions of the CONGRESS at NEW
YORK, 19th October, 1765.*

THE members of this congress, sincerely devoted with the warmest sentiments of affection and duty to his majesty's person and government, inviolably attached to the present happy establishment of the protestant succession; and with minds deeply impressed by a sense of the present and impending misfortunes of the British colonies on this continent, having considered as maturely as time will permit the circumstances of the said colonies, esteem it our indispensable duty to make the following declarations of our humble opinion respecting the most essential rights and liberties of the colonists, and of the grievances under which they labour, by reason of several acts of parliament.

First. That his majesty's liege subjects in these colonies, owe the same allegiance to the crown of Great-Britain,
that

that is owing from his subjects born within the realm; and all due subordination to that august body, the parliament of Great-Britain.

Secondly. That his majesty's liege subjects in these colonies are intitled to all the inherent rights and liberties of his natural-born subjects within the kingdom of Great-Britain.

Thirdly. That it is * *inseparably essential to the freedom of a people*, and the undoubted right of Englishmen, that no taxes be imposed on them but with their own consent, given personally, or by their representatives.

Fourthly. That the people of these colonies are not, and from their local circumstances cannot, be represented in the house of Commons in Great-Britain.

Fifthly. That the only representatives of the people of these colonies are persons chosen therein by themselves,

* It seems there is no free people in the world but the subjects of England, for there is none other who chuse representatives.

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and that *no* † *taxes ever have been or can be*, constitutionally imposed on them, but by their respective legislatures.

Sixthly. That all supplies to the crown, being free gifts of the people, it is unreasonable and inconsistent with the spirit and principles of the British constitution, for the people of Great-Britain to grant to his majesty the property of the colonies.

Seventhly. That trial by jury is the inherent and valuable right of every British subject in these colonies.

Eighthly. That the late act of parliament, intituled, *An Act for granting and applying certain stamp duties and other duties in the British colonies and plantations in America, &c.* by imposing taxes on the inhabitants of these colonies; and the said act, and several other acts, by extended the jurisdiction of the courts of

† Here is no distinction of taxes internal or external, regulation or revenue; all sorts (if indeed there can be more than one sort) are alike unconstitutional, old ones as well as new.

admiralty

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admiralty beyond its antient limits, have a manifest tendency to subvert the rights and liberties of the colonists.

Ninthly. That the duties imposed by several late acts of parliament, from the peculiar circumstances of these colonies, will be extremely burthensome and grievous; and from the scarcity of specie, the payment of them absolutely impracticable.

Tenthly. That as the profits of the trade of these colonies ultimately center in Great-Britain, to pay for the manufactures which they are obliged to take from thence, they § *eventually contribute* very largely to all supplies granted there to the crown.

Twelfthly. That the increase, prosperity, and happiness of these colonies,

§ Their doing so, Mr Dickenson says, is a great grievance, and these *eventual taxes* are equally taxes with the stamp act, and consequently they ought all to be remitted, or the colonies left at liberty to purchase the taxed goods elsewhere.

depend

depend on the full and free enjoyment of their rights and liberties ; and an intercourse with Great-Britain, mutually affectionate and advantageous.

Thirteenthly. That it is the right of the British subjects in these colonies, to petition the king, or either house of parliament.

Lastly. That it is the indispenfible duty of these colonies to the best of sovereigns, to the mother country, and to themselves, to endeavour, by a loyal and dutiful address to his majesty, and humble applications to both houses of parliament, to procure the repeal of the act for granting and applying certain stamp duties, of all clauses of *any other acts of parliament* whereby the jurisdiction of the admiralty is extended as aforesaid ; and of *the other late acts* for the restriction of *American commerce* ||.

|| Here we see the purpose of the colonies fairly set forth. An exemption from all duties and taxes, except such as may be imposed by their own assemblies,

blies. Exemption from the judicature of the court of admiralty, which is the only British court which exercises judicature over the colonies, and removal of the *restrictions on American commerce*, which includes the ships of war, custom-house officers, and acts of trade.

When they shall have carried these several points, one after another, *they* will probably be content, whatever the people of England may be.

